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Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms

Report of the Secretary-General**

Summary

The report contains the replies received from Member States pursuant to paragraph 1 of General Assembly resolution 61/89 entitled "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms". Additional replies received will be issued as addenda to the present report.

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** The document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B, by which the Assembly decided that, if a report is submitted late, the reason should be included in a footnote to the document.

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II. Replies received from Member States

Albania

[Original: English]
[30 April 2007]

1. Albania believes that the arms trade treaty will be a legally binding international instrument, which will express the engagement of all Member States in respecting the international standards in the arms trade. We believe that the arms trade treaty should take into consideration all obligations and/or engagements that all the Member States of the United Nations have undertaken in such instruments, including but not limited to: the Geneva Conventions of 1949, the two human rights covenants as well as the principles established into the International Law Commission's articles on the responsibility of States for internationally wrongful acts. We think that the arms trade treaty should reflect the purpose and principles of the Charter of the United Nations. Moreover, national practices should occupy an important place during the formulation process of the treaty, in order to facilitate the incorporation of better experiences in this field.

2. We believe that the arms trade treaty should encourage further collaboration, improvement of the exchange of information, as well as implementation of all necessary steps for the creation of confidence among all Member States in the field of production, import-export, international transfers and the trade of conventional arms.

3. The arms trade treaty should reflect the right of States to self-defence, expressed in Article 51 of the Charter, as well as the right of States to seek and possess arms for self-defence purposes, in accordance with international law and other relevant standards. Furthermore, the arms trade treaty should retain the obligations that derive from the Charter for all Member States to promote and respect human rights — including civil rights, political, economic and socio-cultural rights, which are necessary for the sustainable development of a country. At the same time, we recognize the obligation of all Member States to respect all obligations deriving from international humanitarian principles, the arms trade treaty will not be effective and generally accepted by all Member States.

4. We believe that the arms trade treaty should take into consideration a vast range of internationally acceptable standards with regard to the arms trade. At a national level, we believe that all Member States should implement a codification of standards that would lead to the facilitation of the arms trade process. It would also help in eliminating unnecessary overload and sometimes confusion among officials and the business community related to the arms trade. On the other hand, we believe that the absence of these international standards deeply influences conflict zones by encouraging organized crime and terrorism, undermining peace as well as challenging sustainable development.

5. Albania believes that the spread and misuse of conventional arms is an issue that is preoccupying the whole international community. We believe that this could be effectively approached only through effective international cooperation, where the United Nations would play a crucial role. Through the arms trade treaty, the United Nations may contribute new knowledge with regard to the conventional arms trade and directly contribute to strengthening international law.

6. Based on the fundamental international instruments, the arms trade treaty should clearly reflect the necessary conditions that Member States should fulfil when asked to engage in an international transfer of conventional arms.

7. Albania believes that the arms trade treaty should identify the primary obligations that reflect the existing international legal obligations of Member States, including but not limited to:

- Prevention of any threat against the peace and security of the international community;
- Ensuring respect for the laws of armed conflict;
- Cooperation in the protection and implementation of human rights.

8. We believe that in order for the arms trade treaty to fulfil its mission, it should include a complete system of control over the transfer of all conventional arms and other accessory equipment, at all cross-border and/or other checkpoints. The arms trade treaty should cover the import-export, transit, transportation and the mediation of all arms, including but not limited to:

- Small arms and light weapons;
- Parts and components accompanying them;
- Tanks and other armoured vehicles;
- Supplies of double usage;
- Munitions;
- Landmines;
- Small arms and light weapons (SALW) including man portable air defence systems (MANPADS);
- Technology used for the production of conventional arms;
- Arms used for interior security.

9. We believe that the arms trade treaty should fulfil its objective in developing the basic criteria in order to secure a responsible transfer of conventional arms. This strongly relates to the criterion that the final destination for both arms and munitions should be in the hands of legitimate and responsible end-users.

10. Albania believes that the arms trade treaty should refer to all possible occasions when arms transfer should be prohibited, including but not limited to:

- Direct/clear infringement of already established obligations under international law, such as those incorporated in the Charter of the United Nations, as well as Security Council resolutions that impose an arms embargo on specific countries;
- When a country has obligations towards any international instrument and is a signatory thereto;
- When a country will make use of the arms in order to threaten another country;
- When the arms may be used to forcefully intervene in another country;

- When the arms may be used by one illegitimate party against another one within the country.

11. At the same time, we believe that the arms trade treaty should emphasize that countries should not allow arms transfers in the following cases, including but not limited to:

- When arms will not be used for the legitimate right of a country to self-defence or for its security needs;
- In cases of aggression against another country;
- In cases when the arms transferred would increase existing tensions where used;
- In preparing or supporting terrorist acts;
- When the arms will be used to violate or oppress human rights, or may be used in cases of genocide or crimes against humanity;
- When the arms transfer causes the security situation in the region to deteriorate.

Argentina

[Original: Spanish]
[2 July 2007]

1. For more than a decade the international community has recognized the need for multilaterally negotiated rules which introduce predictability for conventional arms transfers and reflect the principles of existing international law. The need for such rules stems from a variety of reasons, including in particular the use of arms which is wrongful by the standards of international humanitarian law and human rights, and the risks of arms diversion into the hands of terrorists or criminal groups.

2. It is therefore necessary to have multilateral instruments which identify common parameters at the global level in order to facilitate a common understanding as to what factors and circumstances States will have to take into account when evaluating authorizations for transfers of conventional arms, with the objective of preventing their diversion to protagonists or uses that are not authorized by existing international law.

3. The Argentine Republic is committed to this aim. It considers that the United Nations is the proper forum for the task and can achieve these objectives in a universal, transparent and inclusive manner, thereby facilitating the strengthening of multilateralism as the most effective way of reaching universal understanding. Accordingly, during the sixty-first session of the General Assembly it sponsored, together with Australia, Costa Rica, Finland, Japan, Kenya and the United Kingdom, a draft resolution aimed at evaluating the feasibility of concluding a legally binding international instrument that establishes common international standards for the import, export and transfer of conventional arms.

4. General Assembly resolution 61/89, adopted by 153 votes in favour, attests to the willingness of the vast majority of the international community to continue strengthening existing instruments on disarmament and non-armament.

5. Argentina considers that the evaluation process should be transparent and inclusive. Accordingly, it welcomes the consultation being carried out by the Secretary-General, pursuant to paragraph 1 of the resolution, to ascertain the views of all Member States with a view to the future work in 2008 of the group of governmental experts. Argentina also welcomes the contributions being made by non-governmental organizations in order to promote understanding on this important question.

6. The elements identified by Argentina as of potential use to the work of the future group of governmental experts are set out below.

Preamble

7. This part of the instrument provides an opportunity to refer to what it is hoped to prevent, combat or eradicate through the agency of the instrument, such as: threats to the maintenance of international peace and security posed by violations of the principles of international humanitarian law and human rights, including the wrongful use of force, and the dangers inherent in the potential acquisition of conventional arms by terrorist and criminal groups.

8. The preamble would also be a fitting place in which to reaffirm principles referred to in resolution 61/89: first, the instrument must strengthen the exercise of the right of individual and collective self-defence by Member States under Article 51 of the Charter and recognize prerequisites for the achievement of internal security; secondly, it must acknowledge that the exercise of the rights mentioned carries with it obligations and responsibilities on the part of States. It would also be appropriate to reiterate that the implementation of the instrument aims at establishing a balance between the obligations of all the countries concerned and the need for the instrument to be universal if it is to be effectively implemented.

Feasibility

9. The treaty should establish, through the identification of common standards, what types of international arms transfer comply with international law. A substantial number of existing instruments refer directly or indirectly to this question, some of them binding; they were adopted at the subregional, regional and global levels and cover all or some types of conventional arms.

10. The existence of these instruments sheds a positive light on the feasibility of a legally binding international regime ensuring comprehensive treatment of the arms trade through the adoption of a single universal instrument which reflects the linkage, already recognized in other instruments, between the arms trade and the responsibility of States derived from various commitments and obligations.

11. In the course of its work, the group of governmental experts may wish to bear in mind the list of international instruments included in annex I to this document. This list includes international instruments which need to be taken into account when the standards referred to in section IV (Parameters) are elaborated.

12. One of the principal hallmarks of the future instrument will be ensuring that the universal principles can be accommodated in the national normative framework, hence the importance of making the instrument binding on the States parties. The majority of Member States currently have various transfer control regimes, and some of them engage in an exhaustive process of questions which would be made

redundant by the future international instrument. The prior existence of these control regimes at the national level strengthens the possibility of a universal instrument that reflects elements common to all of them. They should therefore be taken into account by the group of governmental experts.

13. An additional evaluation of the feasibility of other principal elements of the future instrument has been included, together with their description, in section IV of this document.

Scope

14. Definition of transfer. The concept of transfer should cover export, import, brokering, transit and trans-shipment of conventional arms in the territory of a State. In its work on brokering, the group of governmental experts may see fit to bring its findings into line with those of the group established pursuant to General Assembly resolution 60/81.

15. Types of transfer. The instrument should deal in clear terms with the types of transfer covered, bearing in mind the end-users. It should deal with transfers between governments (for armed forces and/or security forces), between Governments and individuals, and between individuals, in order to make sure that every type of transaction is covered. Any transfer that does not have the express authorization of the States involved and that fails to comply with the obligations provided for in the instrument should be prohibited.

16. Types of goods and materials. A number of existing international instruments facilitate identification of the types of conventional arms. The categorization in the United Nations Register of Conventional Arms should provide the starting point, including also the category of small arms and light weapons, their ammunition and the technologies for their manufacture and repair. Regarding components, the approach to their inclusion should be as comprehensive as possible but should be limited to major components so as not to require States to create costly controls which have no bearing on the goal sought by the instrument.

17. To the extent that they are dealt with, explosives should occupy a specific section separate from munitions. The identification of the goods to be included within the scope of the instrument will require a comprehensive database that provides the greatest objectivity possible in order to ensure the exercise of effective control by the national and international bodies responsible for implementing the instrument. Other listings, such as those within the framework of the Wassenaar Arrangement, may be helpful to the group of governmental experts when it identifies the items to be included within the scope of the instrument.

Parameters

18. The international instrument must have as its objective the establishment of common standards that enable national authorities responsible for approving transfers to identify with ease the circumstances and factors they must take into account in order to prevent arms from being diverted to users or uses that are prohibited by international law.

19. Application of the common standards will remain the exclusive preserve of States, which should integrate them into their respective internal legal systems and

establish transfer control regimes that are in compliance with the provisions of the instrument.

20. In the light of this premise, the common international standards have two essential purposes: to establish standards that will ensure the legality of transfers; and to establish standards, identified on the basis of international law, that will prevent legal transfers from being diverted to prohibited users or uses.

21. The practical guidelines for establishing the legality of the transfers might contain, inter alia, the following elements:

(a) The requirement that all States involved should give their express authorization;

(b) The use of export, import, transit and brokering licences and end-user certificates (including adequate security measures, as, for example, certification requiring the signatures of competent authorities in the consulates of the destination countries);

(c) A register of legitimate users (exporters, importers, brokers, transport enterprises) and requested, authorized and denied transfers;

(d) The establishment of electronic databases that facilitate the exchange of information and their maintenance indefinitely;

(e) The appropriate marking of arms in accordance with existing international instruments;

(f) A ban on re-export without the express authorization of the exporting country;

(g) The need for a case-by-case evaluation of the appropriateness of authorizing a transfer, save for clearly established exceptions.

22. Once these minimum guarantees have been fulfilled, the national authorities, when determining the lawfulness of a transfer authorization, should take into account additional elements with a view to preventing any diversion to prohibited users or uses. The additional elements would be expressed in terms of factors and circumstances identified on the basis of commitments and obligations under international law requiring implementation by all the States involved.

23. The following is a non-exhaustive list of standards that could serve to determine whether a transfer should be prohibited or permitted:

(a) Compliance with the provisions of the Charter of the United Nations;

(b) Exercise of the inherent right of individual or collective self-defence, in accordance with Article 51 of the Charter; security requirements of States, including their participation in peacekeeping operations;

(c) Prohibition of the threat or use of force and of intervention in the domestic affairs of other States;

(d) Fulfilment of the obligations deriving from arms embargoes established by the Security Council under Chapter VII of the Charter;

(e) Establishment of a register recording compliance with obligations deriving from instruments in the field of disarmament, non-proliferation and arms control;

(f) Possible diversion of arms to uses prohibited by international law, including norms of international humanitarian law and human rights;

(g) Potential impact of transfers on internal or external conflicts or on peaceful dispute settlement;

(h) Possible diversion of arms to groups of terrorists or drug traffickers or to other criminal elements;

(i) Existence of adequate national arms controls in the destination countries.

24. It should be borne in mind that the standards referred to must serve the overall goal, given that they will be converted to common parameters to evaluate the appropriateness of a transfer. Also, when evaluating risks, States may not be in possession of full knowledge of the circumstances, hence the need for the implementation of the standards to be balanced and proportionate. Even so, the instrument must establish that States, before authorizing a transfer, should adopt the necessary precautions and ensure that the risks associated with the transfer have been forestalled wherever possible.

25. National integration of standards. Establishment of transfer control regimes. As stated above, the implementation of the treaty should be carried out nationally through the internal integration of the global guidelines and the adaptation of the relevant transfer control regimes. Accordingly, the instrument must provide for the adoption of the necessary legal and administrative mechanisms, including the establishment of penal institutions and criminal offences, in order to implement the provisions at the national level. Although every State will be entitled to establish a transfer control regime that is in conformity with its own internal legal order, it is recommended that minimum criteria be included in order to ensure a common standard for the controls.

26. Transparency mechanism and the exchange of information. Another central element of the future instrument would be a transparency mechanism through which States could conduct an exchange of information on the arms transfers they carried out. This mechanism would operate through the presentation on a mandatory basis of national reports similar to those submitted to the United Nations Register of Conventional Arms but amplified to reflect the scope of the new instrument.

27. Follow-up mechanism. It will be important to study the possibility of incorporating a mechanism that allows the scope of the instrument to be updated periodically, new provisions to be added and the common principles to be adapted in the light of bans on new uses or the emergence of new threats that were not contemplated when the instrument was concluded. In this matter, the future instrument would be following the model of various international instruments that allow for periodic review.

28. Institutional mechanism. Given the need to avoid the establishment of excessively costly international institutions, a feasible alternative would be to have a unit within the United Nations Secretariat with the capacity to coordinate matters and assist States to implement the provisions of the instrument.

29. Assistance and cooperation mechanism. The instrument should provide for the need to extend assistance and cooperation for the establishment of comprehensive transfer control regimes in States that do not yet have them and for the implementation of other measures which may at some point be required under the instrument, including its universal application.

Australia

[Original: English]
[18 April 2007]

Introduction

1. Australia believes that the irresponsible or illicit transfer of conventional arms and their components is of such grave and pressing concern that this can only be adequately addressed through the establishment of a legally binding, multilateral treaty. To this end, Australia was proud to be one of the co-authors of General Assembly resolution 61/89 and welcomes the overwhelming majority by which it was adopted. This included strong support from all regions.

2. Australia believes that an arms trade treaty must acknowledge the following principles at a fundamental level:

- The inherent right of all States to self-defence in accordance with Article 51 of the Charter of the United Nations;
- The right of all States to manufacture, transfer, import and export, and retain conventional arms for legitimate security and self-defence;
- All Member States have an interest in preventing the irresponsible or illicit transfer of conventional arms;
- The irresponsible or illicit transfer of conventional arms has a direct impact on international and/or regional peace and security, terrorism and crime, and sustainable development;
- Implementation and enforcement should be the sole responsibility of Member States.

3. Australia is of the view that, rather than restricting any State's legitimate interests in producing, transferring or acquiring conventional arms, an effective arms trade treaty will facilitate responsible arms transfers by raising barriers against illicit proliferation.

Feasibility

4. The principles of responsible arms transfers are not new: they are contained within the weapons of mass destruction export control regimes to which many Member States adhere, and have underpinned a number of binding United Nations Security Council resolutions. Such principles are also included in instruments such as the Programme of Action on Small Arms and Light Weapons, the Firearms Protocol, and Amended Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects.

5. Australia believes that an arms trade treaty should build on existing international law and codify existing best practice in responsible transfers, and draw from relevant regional standards such as the:

- 1998 European Union Code of Conduct on Arms Exports;
- Wassenaar Arrangement Guidelines;
- Organization for Security and Cooperation in Europe (OSCE) Principles Governing Conventional Arms Transfers;
- Nairobi Protocol and Best Practice Guidelines on Small Arms and Light Weapons;
- 2005 Central American Integration System (SICA) Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Material; and
- 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons.

6. Similar principles are also incorporated in other widely supported resolutions of the First Committee of the United Nations General Assembly, covering MANPADS, SALW and transparency in armaments.

7. For an arms trade treaty to be effective, it is highly desirable for it to have the active support of all major producers and importers and exporters, and Australia would particularly welcome their views on this issue. Australia also considers international assistance, whether bilateral or multilateral, to countries which request such assistance, to be a crucial element for such a treaty to have a practical effect.

Scope

8. For the purposes of simplicity, Australia recommends adoption of the categories of conventional arms established in the United Nations Register of Conventional Arms but with the inclusion of conventional arms components and ammunition, to provide consistency with the Programme of Action on SALW and the Marking and Tracing Instrument, and the Firearms Protocol. A generic list of examples, such as that provided in the United Nations Register of Conventional Arms, would be useful in providing guidance, but it should be made clear that this is indicative only. Care must be taken to ensure that emerging technologies can be covered as far as possible without requiring constant amendment of the treaty text.

9. The range of activities which fall within the scope of an arms trade treaty must be clearly and precisely defined in order for the instrument to be effective. Australia believes that, in addition to imports and exports, such a treaty should also cover brokering, temporary imports and exports, re-export, and trans-shipment, as well as conventional arms intended for both official and private end-use.

10. The scope of an arms trade treaty should not extend to transfers within the territory of a State and should have the flexibility for individual Member States to facilitate the temporary import and export of certain goods such as antique or sporting or hunting firearms by individuals engaged in legitimate activities.

Parameters

11. An arms trade treaty should incorporate and codify existing best practice in responsible transfers, including the obligation for States to deny a transfer in circumstances in which the goods in question could:

- Breach international or regional embargoes;
- Be used by criminal groups (including terrorists); or
- Be diverted to unauthorized users.

12. In addition, a transfer should also be denied if such transfer would be contrary to the Charter of the United Nations or a Security Council resolution. An arms trade treaty should also take into account such factors as the prevention of a breach of international humanitarian law, prevention of abuses of human rights and prevention of a destabilizing accumulation of arms.

13. An arms trade treaty should also oblige States to transfer certain items, such as MANPADS, only to Governments or their authorized agents, and also not to permit the re-export of conventional arms without the consent of the original exporting State. Australia expects that an arms trade treaty would represent minimum agreed international standards and would not preclude any Member State from imposing more stringent standards.

14. Australia believes that an arms trade treaty should not be prescriptive with regard to national implementation, which should remain the sole responsibility of each Member State. The group of governmental experts established by General Assembly resolution 61/89 (2006) should, however, consider the establishment of agreed minimum levels of information which Member States must include on end-use and end-user certification in order to facilitate enforcement.

15. In order to be effective, an arms trade treaty requires a level of public transparency which would contribute to general peace and security as a confidence-building measure; confidential information-sharing would also be necessary at the operational level. These elements must be carefully distinguished: the processes and procedures currently used by various transfer control regimes, such as the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers' Group, the Wassenaar Arrangement and the Zangger Committee could inform the work of the group of governmental experts in this respect.

Austria

[Original: English]
[27 April 2007]

Introduction

1. Every year, hundreds of thousands of people are killed because of the uncontrolled proliferation of arms. It is undisputed that the irresponsible trade in arms fuels human rights violations, destabilisation, crime, terrorism and conflict — with all its multifaceted consequences such as displacement, violations of international humanitarian law and poverty — thus being one of the biggest barriers to millions of people achieving their human rights and development opportunities in peace and security.

2. While a number of steps have been taken nationally and regionally over the last years, standards for controls of the international trade in conventional arms vary greatly, so that irresponsible traders continue to benefit from existing gaps and inconsistencies. Closing the loopholes and ensuring that all arms traders are working to the same standards to be elaborated in one comprehensive legally binding instrument should therefore be in the fundamental interest of all States.

3. The primary responsibility for controlling the flow of arms is resting with States — all States, whether they are manufacturers or not, whether they export, re-export, transit, or import arms. Austria was pleased to note the growing willingness of States to assume such responsibility as clearly reflected by the overwhelming support for the adoption of General Assembly resolution 61/89 last December. We, too, strongly support the objective of establishing effective common international standards for the import, export and transfer of conventional arms, with the aim of reaching agreement on a comprehensive, effective and legally binding international instrument as proposed in this resolution.

4. In this context Austria hopes that its initial views on feasibility, scope and draft parameters will contribute to a constructive and forward-looking debate in the months to come and in particular by the group of governmental experts due to commence its tasks in 2008. Austria will fully and actively support the group and all future efforts for the successful conclusion of an arms trade treaty.

Feasibility

5. It goes without saying that the feasibility of concluding an effective legally binding instrument within the United Nations and within a reasonable time frame will largely depend on the political will of all States, including that of the world's major arms exporters, to actively and constructively engage in this important endeavour.

6. Nevertheless, Austria believes in the feasibility of an arms trade treaty.

7. First, many of the fundamental principles which a legally binding instrument may include are already set out in customary international law, existing international agreements and conventions or are part of legally or politically binding international, regional or national instruments. While, however, drawing on experience of existing obligations and certainly using the Charter of the United Nations and arms embargoes imposed by the United Nations Security Council as major cornerstones of a future arms trade treaty, we would like to underline that in our view, to be of added value, a future arms trade treaty has to go beyond a mere compilation of existing standards and be a new and independent legally binding instrument.

8. Second, there is, as also noted in resolution 61/89, a growing number of relevant initiatives, undertaken at the international, regional and subregional levels, to enhance cooperation, to improve information exchange and transparency and to implement confidence-building measures in the field of responsible arms trade. These relevant initiatives underline the feasibility of a future arms trade treaty and provide for a patchwork basis that should be diligently and systematically assessed in the framework of the group of governmental experts. The existing structures of these initiatives could be utilized in the context of a future arms trade treaty.

9. Third, global campaigning specifically in favour of an arms trade treaty, based on an understanding that arms control is a question affecting everyone and putting at stake the credibility of all responsible States, has set in motion an irrevocable process across all regions, establishing the critical mass of States and within civil society necessary to keep up enormous momentum. In order to succeed, this cross-regional cooperation and partnership — between the developing and the developed world, between States, international organizations and civil society — will have to be further strengthened but, in our view, also be widened by including input from the arms industry.

Scope

10. Austria believes that the envisaged instrument should cover all conventional arms including ammunition. Furthermore and in order to prevent the emergence of new loopholes for irresponsible traders, we believe that to be truly comprehensive, the instrument should also include related material, such as components and manufacturing equipment as well as technology. To avoid legal and/or technical uncertainties Austria sees merit in the elaboration of a detailed list to be annexed to the instrument, drawing on the experience of existing lists such as the Wassenaar Munitions List.

11. In the same spirit of seeking an instrument as comprehensive as possible "import, export and transfers" should be defined in a broad way and equally encompass transit, trans-shipment, temporary imports or exports for various purposes as well as retransfer and brokering. Progress made on an eventual future instrument in brokering will thus have to be taken into account. In the forthcoming discussions emerging issues such as licensed production, export of services and maintenance as well as intangible transfers of technology should also be tackled.

Parameters

12. Keeping in mind the overall goal of preventing and eliminating irresponsible and uncontrolled trade in arms and to avoid misinterpretations the instrument should reaffirm the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations, as well as the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs, and in order to participate in peace support operations.

13. When developing criteria to be applied by national licensing authorities when assessing applications on a case-by-case basis, Austria believes that — as a minimum — the following core principles should be considered: respect for international obligations of Member States of the United Nations, respect for international humanitarian and human rights law, the maintenance of international and regional peace, security and stability, the promotion of sustainable development, the prevention of internal and regional armed conflicts or terrorist acts and the prevention of the diversion of arms within the buyer country or their re-export under undesirable conditions.

14. Having strongly benefited from the existence of the so-called User's Guide, intended for use primarily by licensing officials, summarizing agreed guidance for the implementation of operative provisions of the European Union (EU) Code of Conduct, Austria would consider it important to elaborate guidelines on how to

assess individual applications in parallel to the development of the criteria. As this process might also encompass the need for capacity-building in Member States, means of international assistance and cooperation will have to be considered in order to allow full implementation of the future instrument in all Member States and thus contributing to its effectiveness.

15. Further aspects crucial for the effectiveness of such instrument would be sufficient mechanisms in the areas of information-sharing and reporting as well as monitoring and enforcement.

Bangladesh

[Original: English]
[5 June 2007]

General

1. General Assembly resolution 61/89 is a timely and important step towards establishing a legally binding, comprehensive arms trade treaty to ensure common international standards for import, export and transfer of conventional arms. The arms trade treaty, however, should crystallize in the context of existing international arms transfers, regimes and the commitments already assumed by States under the Charter of the United Nations, the Geneva Conventions of 1949, the two International Covenants on human rights, other widely supported international conventions and established principles of customary international law. Using existing international laws as its foundation, the arms trade treaty needs to set out the conditions that States must adhere to in exporting, importing and transferring conventional arms.

Scope

2. The arms trade treaty should reflect the inherent right of all States to self-defence under Article 51 of the Charter and acknowledge the right of all States to acquire legitimate arms for self-defence and security needs in accordance with international law and standards.

3. The arms trade treaty must also reflect the obligation of States under the Charter to promote and observe human rights and fundamental freedoms — including civil, political, economic, social and cultural rights.

4. The arms trade treaty should cover the import, export, transit and trans-shipment and brokerage of all conventional arms including:

- Heavy weapons;
- Small arms and light weapons;
- Parts and components of the afore-mentioned;
- Munitions, including ammunition and explosives;
- Technology used in manufacturing conventional arms;
- Productions;
- Weapons used for internal security;

- **Dual-use goods intended for military, security or policing purposes;**
- **Trade/commerce of arms for private use.**

5. The arms trade treaty should apply to all aspects of the government-sanctioned trade in conventional arms, which must include:

- **State-to-State;**
- **State-to-private end-user;**
- **Commercial sales;**
- **Leases;**
- **Loans or gifts or any other form of transfer of material goods or expertise.**

Principles

6. States are responsible for and must regulate all arms transfers under their jurisdiction. States shall not authorize international transfer of arms or ammunition that violates their expressed obligations under international law:

- **Obligations under the Charter of the United Nations, including:**
  - **(a) Binding resolutions of the Security Council, such as those imposing arms embargoes;**
  - **(b) The prohibition on the threat or use of force;**
  - **(c) The prohibition on intervention in the internal affairs of another State.**
- **Any other treaty or decision by which that State is bound, including:**
  - **(a) Binding decisions, including embargoes, adopted by relevant international, multilateral, regional and subregional organizations to which a State is party;**
  - **(b) Prohibitions on arms transfers that arise in particular treaties which a State is party to, such as the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and its Protocols, and the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.**
- **Universally accepted principles of international humanitarian law.**
- **If there are reasons to believe that the transfer will:**
  - **(a) Be used for or to facilitate the commission of violent crimes;**
  - **(b) Be used in the commission of serious violations of international humanitarian law, applicable in international or non-international armed conflict;**
  - **(c) Be used in the commission of genocide or crimes against humanity;**
  - **(d) Be used in acts of aggression against another State or population, threatening the national security or territorial integrity of another State;**

(e) Contravenes other international, regional or subregional commitments or agreements on non-proliferation, arms control and disarmament.

- States must agree to a monitoring and enforcement mechanism providing for prompt impartial and transparent investigation of alleged violations of the arms trade treaty, and to include appropriate penalties for offenders.

- States shall submit comprehensive national annual reports on all of their international arms and ammunition transfers to an international registry, which shall publish a comprehensive annual report.

- States shall establish common standards for specific mechanisms to control:

(a) All import and export of arms and ammunition;

(b) Arms and ammunition brokering activities;

(c) Transfers of arms and ammunition production capacity;

(d) The transit and trans-shipment of arms and ammunition.

- States shall not authorize a transfer if it is likely to be diverted, within the transit or importing country or be re-exported, to unauthorized uses or into the illicit trade.

- A transfer shall not be authorized if it is destined to:

(a) Hinder or obstruct sustainable development and unduly divert human and economic resources to armaments of the States involved in the transfer;

(b) Involve corrupt practices at any stage — from the supplier, through any middleman/broker, to the recipient.

Factors to be taken into account/other points

7. Member States shall take into account other factors, including the likely use of the arms or ammunition, before authorizing an arms transfer, including the recipient's record of compliance with commitments and transparency.

8. A monitoring and enforcement mechanism must exist, providing for prompt, impartial and transparent investigation of alleged violations of an arms trade treaty.

9. To be effective, an arms trade treaty should contain a comprehensive system to control the cross-border movement of all conventional weapons, munitions and associated parts, technology and equipment.

10. All Government-sanctioned trade in arms must be clearly defined and properly regulated according to objective common standards based upon relevant principles of international law.

11. Destruction of surplus stocks may be included in an arms trade treaty.

12. The imposition of a selective ban and embargo on the production, sale and transfer of conventional arms may be considered if required.

13. Establishing a national conventional arms trade control agency may be considered in connection with the conventional arms trade.

14. Government accountability should be ensured.

15. Improvement of the stockpile security may be considered.

16. Overcoming economic challenges resulting from Arms Trade Control may be kept in view.

17. Conventional arms trade should be within the legal binding and between the recognized governments of the States.

18. Recognized governments should not hand over the imported arms to any political groups or insurgent groups. The Importer should be liable for any transfer of arms to any such groups.

19. There should not be any trade of arms in exchange of food, mineral resources or agricultural products convertible to narcotics.

Belgium

[Original: French]
[31 May 2007]

1. Belgium fully subscribes to the response given by Germany, which holds the current presidency of the European Union. Belgium's own national response is based on the following points.

Background

2. Numerous initiatives have been adopted nationally, regionally and multilaterally with a view to countering illicit arms traffic and the destabilizing accumulation of weapons:

- The European Union, for example, adopted a programme for the prevention and suppression of illegal trafficking in conventional weapons in June 1997 and a Code of Conduct on Arms Exports in June 1998;
- Various texts have also been adopted in the Americas: the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, adopted by the Organization of American States (OAS) in 1997; the 1999 OAS resolution on Proliferation of and Illicit Trafficking in Small Arms and Light Weapons; the 2000 Antigua Declaration on the Proliferation of Light Weapons in the Central American Region; the 2005 Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Materials of the Central American Integration System (SICA);
- For Africa, mention should be made of the Regional Action Programme on Light Arms and Illicit Arms Trafficking of the Southern African Development Community (SADC) of May 1998; Mali's moratorium on the import, export and production of light weapons; the Nairobi Declaration on the Proliferation of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa; the Nairobi Protocol and its best practices guidelines concerning small arms and light weapons (2005); the convention of the Economic Community of West African States (ECOWAS) on small arms and light weapons;
- The Organization for Security and Cooperation in Europe (OSCE) has contributed to the implementation of the United Nations plan of action by

producing several good-practice guides on stock management procedures, national marking systems, small arms import and export policy, the control of brokering activities and disarmament, demobilization and reintegration;

- Within the framework of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, mention should be made of the best practices guidelines for small arms and light weapons exports (2002).

3. Internationally, on the other hand, there is no regulation of arms trade, the target at which resolution 61/89 is aimed.

Feasibility

4. A legally binding international instrument would be feasible provided that it was ratified by a sufficient number of Member States and that it was actually applied.

5. Many of the fundamental principles that an instrument might include are already recommended by several regional and international instruments and mechanisms (see above).

6. Those tools provide a basis on which it should be possible to reach a broad consensus.

7. It goes without saying that this implies a collective process and that de facto harmonization of the positions and policies of the international community as a whole can only bring the different views closer together.

Scope

8. Belgium considers that the instrument must cover all conventional weapons, from hand-held weapons to other small arms and light weapons to tanks and other armoured combat vehicles, combat aircraft (including helicopters), warships and missiles equipped with conventional charges.

9. As for dual-use goods, the group of governmental experts must be encouraged to deal with this question in a useful manner.

10. However, given the technological progress that characterizes the arms field, it would be desirable to contemplate a list comprising flexible descriptions. The scope of control mechanisms should be clearly defined in order to be effective.

11. Also, the group of governmental experts should undertake to define precisely certain terms that are used, such as: import, export and transfer. Clear definitions can only facilitate the implementation of the instrument. Other activities should also be covered, such as brokering, transit and trans-shipment.

Parameters and criteria

12. Being aware that an international system aimed at combating illicit arms trade can work only by means of legally binding provisions, Belgium has tightened up the criteria governing the granting of export or transit licences. It is the first country to have integrated into its national legislation both the criteria and the operative provisions of the European Union Code of Conduct on Arms Exports.

13. The Belgian law of 26 March 2003 published in the Moniteur (official gazette) for 7 July 2003, established a number of criteria based on which an application for an export or transit licence is to be rejected with regard to a given destination country. Among the parameters in question, which might be taken into consideration in the drafting of the future instrument, let us mention the following grounds for rejection:

- Any flagrant violation of human rights to which the export or transit might contribute;
- The existence of a clear risk that the goods whose export is contemplated might be used for internal repression;
- The confirmed presence of child soldiers in the regular army;
- The risk that the export might cause or prolong armed conflicts or aggravate tensions, conflicts or a state of civil war in the final destination country;
- The existence of a clear risk that the destination country might use the materiel in question for aggression against another country or to assert a territorial claim by force;
- Support or encouragement given by the destination country to terrorism or international organized crime;
- The existence of a serious risk of diversion of the equipment within the destination country, particularly where the country has shown that it does not respect the non-re-exportation clause.

14. Other parameters to be taken into consideration are the technical and economic capacity of the destination country, the legitimate security and defence needs of States and the fact that it is desirable that States should devote the minimum required in terms of budgetary resources to arms expenditures.

15. Another essential element to incorporate into any future instrument governing arms trade is a clear definition of brokering, accompanied by provisions on enhanced international cooperation and harmonized rules, so as to eliminate the "grey" areas of which arms traffickers seek to take advantage.

16. Also, reliable marking approved by the international community may prove useful. The international instrument on marking and tracing would then provide a good source of inspiration.

17. Belgium hopes that the work of the group of governmental experts under United Nations auspices will result in ambitious recommendations.

Bosnia and Herzegovina

[Original: English]
[30 April 2007]

1. In this context Bosnia and Herzegovina suggests that the key goals in taking forward this initiative should be to ensure that:

– States are clearly aware of, understand and adhere to their existing international commitments, which are currently set out in a range of different

instruments and under customary international law, to control international transfers of conventional arms;

– States adopt and implement standards to prohibit arms transfers which will:

- **Provoke or prolong armed conflicts, or exacerbate existing conflicts;**
- **Aid the commission of human rights abuses;**
- **Aid the commission of serious violations of international humanitarian law;**
- **Destabilize countries or regions;**
- **Undermine sustainable development, including ensuring the least diversion for armaments of the world's human and economic resources;**
- **Allow arms to flow from the legitimate to the illicit market;**
- **Undermine the establishment and maintenance of international peace and security.**

– In the conduct of the arms trade States subscribe to the highest standards of good governance, including the need to tackle bribery and corruption;

– States maintain control of the flow of arms into and out of their territory by establishing and implementing national legislation, with penalties for breaches of this legislation;

– States, if they wish, are able to participate in the legitimate international defence trade:

- **To maintain and develop their industries to meet their own defence and security needs;**
- **To execute international collaborative defence projects;**
- **To import arms for their legitimate needs;**
- **To export arms to help other nations to meet their own defence and security needs.**

2. A failure to address the existing gaps in the control of this international trade would be a failure to take responsibility for the arms we allow to be traded into and out of our States or by our citizens. Bosnia and Herzegovina firmly believes that States who wish to do so should be able to develop their own defence manufacturing capabilities, to meet their own legitimate defence needs and for export, and that this trade can pay dividends in ensuring, promoting and maintaining peace and security. However it is also clear that the right of States to self-defence is accompanied by the responsibilities of States to prevent threats to peace and to ensure respect for international law, including human rights and humanitarian law.

3. We also believe that the vast majority of those involved in the arms trade act responsibly and ensure their goods are only supplied to legitimate end-users. But there are traders who will sell to any buyer for any use, regardless of whether this would be in breach of any existing national and international commitment. These unscrupulous traders are more easily able to do this because of significant differences between national controls and implementation mechanisms, which exist in part because of the lack of internationally accepted standards of control backed by an overarching legally binding international instrument.

Feasibility

4. In simple terms the main limits on the feasibility of a comprehensive legally binding instrument are:

- The will of a wide range of States to enter genuinely into and conclude a negotiation on an instrument which meets their needs and the needs of States approaching the issue from a different perspective, i.e. the needs of customers and suppliers;
- States being able to agree to a rigorous but not overly burdensome mechanism for monitoring and enforcement;
- Ensuring States have the capacity, and the commitment, to implement effectively the provisions of an instrument.

5. Many of the fundamental principles which an instrument may include are already set out in customary international law and existing international agreements, such as:

- The Charter of the United Nations (and associated Security Council resolutions controlling and prohibiting arms transfers);
- Those contained within common article 1 of the Geneva Conventions (in particular the obligation to uphold international humanitarian law), by which States are already bound.

Or in other legally binding obligations contained in:

- The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;
- The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

And politically binding guidelines, including:

- The 1991 P5 Guidelines for Conventional Arms Transfers;
- The 1996 United Nations Guidelines for International Arms Transfers;
- The 2001 United Nations Programme of Action on Small Arms and Light Weapons, including specifically section II, paragraph II.

6. This indicates that concluding an instrument is feasible since it builds upon established principles. Similarly there are a growing number of other agreements relating to the arms trade, such as:

- The 1993 OSCE Principles Governing Conventional Arms Transfers;
- Politically binding rules such as those set out in the 1998 European Union Code of Conduct on Arms Exports;
- The 2000 OSCE Best Practice Guide on Small Arms and Light Weapons;
- The 2001 Protocol on the Control of Firearms, Ammunition and other related materials in the Southern African Development Community (SADC);

- The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, in particular the 2002 Best Practice Guidelines for Exports of Small Arms and Light Weapons, and the 2003 Elements for Export Controls of Man Portable Air Defence Systems (MANPADS);
- The 2005 Nairobi Protocol and Best Practice Guidelines on Small Arms and Light Weapons;
- The 2005 Central American Integration System (SICA) Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Material;
- The 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons.

7. These also indicate that there is a growing realization of the need for States to conclude and implement agreements covering the trade in conventional arms. But in considering feasibility it should be noted that not all States are party to such agreements, and those agreements that do exist do not all cover all aspects of conventional arms transfers, hence the need for a global instrument.

8. Ongoing work now, whether it is carried out bilaterally or as part of coordinated international interventions, will continue to help ensure States have the capacity to implement an eventual instrument. While an instrument may take some years to become a reality, it is vital that this capacity-building work continues, whether it is focusing on putting in place national legislation and administrative regulations, or on improving national enforcement, such as through more rigorous customs procedures. This work will enable States to improve their controls now, but will only be fully effective when they can be confident that other States are following the same high standards as they have adopted, which will only be assured when a global instrument is agreed and implemented.

Scope

9. The two main issues that need to be defined in the scope of an instrument will be the items and transfers to be covered.

10. Bearing in mind the need to ensure that transfers do not provoke or exacerbate conflicts, aid the commission of human rights abuses or of serious violations of international humanitarian law, undermine sustainable development, or allow arms to flow from the legitimate to the illicit market, Bosnia and Herzegovina, as a country aware of the effects of conventional weapons, believes that an instrument must cover all conventional arms, ranging from handguns and other small arms and light weapons (SALW), to main battle tanks and other armoured fighting vehicles, combat aircraft (including helicopters), warships and conventionally armed missiles. To ensure that such arms are not used in breach of international commitments, an instrument should also cover munitions for the equipment listed above, including ammunition for SALW and larger weapons, the technology to produce and maintain such equipment, and their parts and components.

11. Noting that views have been sought on a comprehensive instrument, and while recognizing that coverage of dual-use items is a complex issue, Bosnia and Herzegovina believes it would also be desirable for the group of governmental

experts to consider, in some detail, coverage of dual-use items directly relevant to the above arms, munitions and production technology.

12. Whatever the scope of the items to be included, coverage and controls will need to be set out in a way which can be easily and consistently understood by industry and by those responsible for regulating the arms trade. A simple generic description of the categories of arms, possibly stemming from the categories of the United Nations Register of Conventional Arms (with the addition of other areas covered by an instrument, e.g. ammunition, parts, components, technology to produce, etc.), would be relatively easy to keep current, but might leave open the possibility for confusion over whether an item is covered or not. A detailed listing, like that used by the European Union (which is drawn from the listing maintained by the Wassenaar Arrangement) would help remove the risk of ambiguity, but whether such a listing would in practical terms meet the needs of all States will need further consideration. Bosnia and Herzegovina is open to suggestions on how best this issue may be addressed to meet the needs of all States.

13. The range of transfers to be covered by an instrument will also have to be clearly defined. The resolution refers to import, export and transfers. An instrument will have to make clear what is meant by these terms (making reference to existing norms). An instrument should also cover other activities, including brokering, transit and trans-shipment, loans, gifts, and temporary imports/exports for demonstration or exhibition. It will be important in this context to take note of the current work of the group of governmental experts on brokering, which is due to report this summer.

14. Bosnia and Herzegovina suggests that an instrument should be confined to transfers which will involve arms or related technology moving from the territory of one State to that of another State, including Government to Government or State to State transfers. An instrument should not cover transfers within a State. An instrument should not impose restrictions on how arms may be acquired, held or used within a State's territory. An instrument should also not place overly burdensome controls on the movement of privately owned antique or sporting firearms for sporting or cultural purposes. However, an instrument should set out the issues which States must consider before deciding whether to permit a transfer, including the eventual use of the item in question (see parameters below).

Parameters

15. One of the key elements of an arms trade treaty will be an agreement on establishing legally binding international standards which States agree to follow. Some of these are already set out in a number of different agreements. Others need further elaboration.

16. The first step in this process will be to collate and set out clearly the existing standards by which States are bound to comply, including those which set out clear prohibitions on the supply of arms. For example, commitments under:

- The Charter of the United Nations, including the need to comply with Security Council resolutions;
- The Convention on the Prevention of and Punishment of the Crime of Genocide;

- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- The International Covenant on Civil and Political Rights;
- The International Covenant on Economic, Social and Cultural Rights;
- The Geneva Conventions and associated Protocols.

17. Stemming from these international commitments Bosnia and Herzegovina would suggest that an instrument needs to set out clearly the conditions which States must apply when considering a transfer. Bosnia and Herzegovina would suggest that the key considerations, for importing and exporting States, and for other States involved in the transfer of an item, to be considered while bearing in mind the right of all States to arm themselves for self-defence, must be whether the proposed transfer will:

- Breach any international or regional commitments;
- Be diverted to a use which would breach any international or regional commitments;
- Be used in the commission of serious violations of international humanitarian or human rights law;
- Be used in the furtherance of terrorist acts;
- Be used in the commission of violent crimes;
- Be used to provoke or exacerbate internal or regional conflict;
- Be used to destabilize countries or regions;
- Seriously undermine the economy or hamper the overall development of the importing State;
- Be diverted to one of the above uses.

18. In each of these cases, unless a State is satisfied that a potential transfer would not breach international commitments or any of the conditions set out above, the State should be required to refuse permission for the transfer. It should also be made clear that such standards are the minimum that States agree to apply, and that if they decide to do so they may apply higher standards.

19. In further considering these points it is important to set out clearly the measure of certainty States need to have in the legitimate nature of a proposed transfer. In the case of clear commitments, such as United Nations embargoes, the standards are unambiguous. But in deciding if they can be satisfied an item will not be used in one of the stated negative ways, States will need clear, easy to understand guidance to be set out in an instrument to facilitate implementation of controls. This may need to be set out for each individual area of concern. For example, it may be unreasonable to expect a State to refuse to allow a transfer because it cannot be satisfied arms will not be used in the furtherance of terrorist acts just because there has been one terrorist incident in the State in question. But if a State was aware that the intended recipient was a known terrorist grouping (for example those identified by a relevant United Nations body) or a trader associated with procurement for terrorist groupings, they should clearly not approve the transfer.

20. To ensure States can be confident that agreed standards are adhered to, they must be applied in a transparent and accountable manner. There will therefore need to be a requirement that States share adequate information on the transfers that they approve. A mechanism will be needed to ensure this information is available in a timely manner and accessible to all States. It would also be helpful for States to share information on transfers that they do not allow. Thus if one State refuses a transfer, others would be able to take note of this if they receive an application for permission to carry out a similar transfer. Bosnia and Herzegovina recognizes that sharing information on refused transfers will be particularly sensitive, and another complex issue for the group of governmental experts to consider.

21. Bosnia and Herzegovina is convinced that to have a real impact an instrument will need to include an effective mechanism for enforcement and monitoring, building on an information sharing mechanism (see above), and including provision to look into and address any alleged breaches of commitments. An instrument will also need to set out measures to be taken if a State is in breach of commitments. This should be a visible process, designed to investigate in a timely manner any alleged breaches, but also designed to avoid unnecessary investigation of frivolous suggestions of wrongdoing. In this context consideration should also be given to the need to ensure that items are appropriately marked to ensure traceability.

22. To aid this process an instrument should also set out the basic practical mechanisms and guidance States should use when deciding on a case-by-case basis whether or not to allow a transfer. This does not need to be overly burdensome, but may set out, for example, the basic need to ensure all transfers are supported by appropriate documentation, and that records must be kept of all transfers.

23. Existing work to improve the practical control of the transfer of conventional arms, as mentioned in the feasibility section (above), will set the foundation for putting an instrument into practice. But an instrument will also need to include provisions on transitional implementation periods and on the need, for those able to, to offer assistance to other States to help them meet and successfully implement the commitments an instrument will entail.

24. Consideration will also be required of the resources needed to support implementation of an instrument. It may be decided that some kind of permanent or semi-permanent implementing body or secretariat is needed. This might serve as a point of contact for national reports and information sharing, capacity-building assistance and as a basis for any fact-finding mechanism. But any such body should not duplicate the work of other existing bodies.

Brazil

[Original: English]
[30 April 2007]

Introduction

1. Brazil has been actively engaged in the discussions regarding a possible legally binding instrument related to the trade in conventional arms, based on its concerns in relation to the negative human and material consequences of the uncontrolled circulation and illicit trade of such weapons.

2. Discussions to this end must be oriented towards the goal of achieving an instrument that effectively disciplines the licit trade in conventional arms (as well as the trade in small arms and light weapons and their ammunition) without interfering with the right of States to manufacture, import, export, transfer and retain such weapons and ammunition for individual or collective self-defence purposes, in accordance with Article 51 of the Charter of the United Nations.

3. The instrument should also provide the international community with efficient tools to prevent, combat and eradicate the illicit trade in conventional weapons and small arms and light weapons and their ammunition.

4. Brazil is looking forward to contributing to the discussions on the issue, with a view to reaching as a final result a legally binding instrument that is balanced and objective, as well as effective and non-discriminatory, with a strong focus on universalization, which is indispensable for its full implementation.

5. The instrument must contain a strict requirement that all transfers of conventional weapons and small arms and light weapons must be expressly authorized by competent governmental authorities of the importing State, as well as a clear prohibition of transfers to unauthorized non-State actors.

6. It should also be noted that, while the instrument should provide a comprehensive international legal framework for the regulation of the trade in conventional arms, in small arms and light weapons and in ammunition for small arms and light weapons, as well as for the prevention, combat and eradication of their illicit trafficking, the application and enforcement of controls over transactions in such weapons and ammunition is a responsibility of States.

7. In addition, Brazil proposes that the discussions on a possible instrument related to the issue should include analysis of the proposal for taxation of the arms trade, which was presented by Brazilian President Luiz Inácio Lula da Silva at the 2003 G-8 enlarged dialogue in Evian.

8. The present response is based upon inputs and contributions from relevant Brazilian governmental agencies and it takes into account the findings and recommendations of a survey on opinions of various segments of Brazilian civil society as regards a possible legally binding instrument related to the trade in conventional arms, carried out by the São Paulo-based non-governmental organization "Sou da Paz".

Feasibility

9. In the view of Brazil, a legally binding instrument related to the trade in conventional arms, in small arms and light weapons and in ammunition for small arms and light weapons is only feasible as long as it is balanced, objective, non-discriminatory and oriented towards universal applicability.

10. The instrument should be balanced, meaning it should rest upon shared obligations among import, export and transit States.

11. The instrument should be composed of guidelines of an objective nature. While it should be acknowledged that subjectivity may never be fully eliminated, the formulation of the language of the instrument should leave as little room as possible for different interpretations among States, which would undermine the prospect for an effective and uniform implementation of its guidelines. By the same

token, ensuring that the provisions of the instrument are objective will also contribute to their non-discriminatory implementation, i.e. by contributing to the avoidance of incoherent practices and "double standards".

12. The following global multilateral legally binding instruments and political commitments should be taken into account in the discussions related to the structure and content of a possible legally binding instrument related to the trade in conventional arms, in small arms and light weapons and in ammunition for small arms and light weapons:

- The Charter of the United Nations;
- Relevant resolutions adopted by the United Nations Security Council and by the United Nations General Assembly on the issue;
- The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, as well as its associated Protocols;
- The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction;
- The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;
- The United Nations Register of Conventional Arms;
- The 1996 United Nations Disarmament Commission Guidelines for International Arms Transfers;
- The Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects;
- The International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons.

13. Additionally, a series of regional legally binding instruments and political commitments may also provide useful elements for inclusion in a possible legally binding instrument related to the trade in conventional arms, in small arms and light weapons and in ammunition for small arms and light weapons, among which:

- The 1997 Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials;
- The 1999 Inter-American Convention on Transparency in Conventional Weapons Acquisitions;
- The 1998 Model Regulations for the Control of Firearms of the Inter-American Drug Abuse Control Commission of the Organization of American States;
- The 2003 Model Regulations for the Control of Brokers of Firearms, their Parts and Components and Ammunition of the Inter-American Drug Abuse Control Commission of the Organization of American States.

Scope

14. The instrument should apply to the trade in conventional arms as defined for the purposes of the United Nations Register of Conventional Arms,[1] as well as to small arms and light weapons, as defined in the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons,[2] and to ammunition for small arms and light weapons.

15. It should also have specific and stringent provisions to prevent, combat and eradicate the illicit trade in all items and goods covered by its scope, and should include provisions aimed at disciplining production under licence.

16. In addition, the instrument should also aim at preventing, combating and eradicating illicit brokering in conventional arms, in small arms and light weapons and in ammunition for small arms and light weapons, and in this regard it shall take into account the results of the group of governmental experts on illicit brokering of small arms and light weapons created by General Assembly resolution 60/81, which is due to report to the General Assembly in its sixty-second session, in 2007.

17. In regard to the issue of dual-use items or technologies associated with conventional weapons, Brazil believes that it would be neither feasible nor desirable to include them in the scope of applicability of the instrument, due to the fact that their inclusion may cause undue negative impact on civilian applications of such dual-use items or technologies. It should also be recalled that negotiating a list of such items and keeping it updated in the framework of a legally binding instrument may involve insurmountable difficulties, with little if any added value for its purposes.

Draft parameters

18. The instrument should include objective guidelines to be taken into account by States in authorizing international transfers of conventional weapons. In particular, the instrument should include a provision requiring States to avoid authorizing transfers of conventional arms, small arms and light weapons and ammunition for small arms and light weapons in cases where there is a clear and recognizable risk that the transfer in question will:

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[1] Battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships and missiles.

[2] The instrument defines small arms and light weapons as "any man portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive, excluding antique small arms and light weapons or their replicas. Antique small arms and light weapons and their replicas will be defined in accordance with domestic law. In no case will antique small arms and light weapons include those manufactured after 1899:

(a) "Small arms" are, broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns;

(b) "Light weapons" are, broadly speaking, weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include, inter alia, heaving machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems and mortars of a calibre of less than 100 millimetres.

- Be used in violation of the provisions of the Charter of the United Nations related to the use of force;
- Violate United Nations Security Council arms embargoes;
- Breach any legally binding international or regional commitments to which the States involved in the transaction are bound;
- Be used for serious and persistent violations of human rights and international humanitarian law, as defined by relevant instruments adopted in the framework of the United Nations;
- Be used for the commission of terrorist acts and/or violent crime, as defined by relevant instruments adopted in the framework of the United Nations;
- Be diverted to any of the above-mentioned uses.

19. Other factors, such as possible impacts on regional strategic stability, may also be regarded as potentially relevant. However, due to the complexity of the issue, objectively determining how it would be affected by a particular arms transfer may not be possible: in many cases, conventional arms transfers may have a stabilizing effect, by increasing the deterrence capabilities of the importing State, thereby contributing to the avoidance of conflict or destabilization. Therefore, such a factor should not be included as an objective criterion for the authorization of transfers.

20. On the other hand, it should be noted that considerations on the domestic socio-economic impact of military expenditures and arms acquisitions by a given State are within the realm of exclusively sovereign attributions and responsibilities of the State in question. Therefore, the inclusion of such a criterion in the instrument would be altogether unacceptable.

21. Additionally, Brazil wishes to stress that discussions on the instrument must not focus only on guidelines for the authorization of licit transfers of conventional weapons, but also take into account the need to include procedural administrative provisions with a view to preventing, combating and eradicating the illicit trade in such weapons, including measures related to international cooperation and assistance for capacity-building.

22. In this regard, the instrument should consider transfers of conventional arms, of small arms and light weapons and of ammunition for small arms and light weapons as "illicit" in any of the following cases:

(a) If they are considered illicit under the law of the State within those territorial jurisdiction the weapon in question is found;

(b) If they are transferred in violation of arms embargoes decided by the Security Council in accordance with the Charter of the United Nations;

(c) In the case of small arms and light weapons, if they are not marked in accordance with the provisions of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, and/or the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;

(d) If they are manufactured or assembled without a licence or authorization from the competent authority of the State where the manufacture or assembly takes place; or

(e) If they are transferred or assembled without a licence or authorization by competent national authorities of the States involved in the transaction.

23. The instrument should include an obligation to adopt national implementation measures, in particular an adequate system of national laws and/or regulations and administrative procedures to exercise effective control over armaments and the export, import and transit of conventional arms, small arms and light weapons and ammunition for small arms and light weapons. Such measures should include:

- **The establishment or maintenance of effective systems of export, import and international transit licences or authorizations for transfers;**
- **The requirement of licences or authorizations by competent national authorities of the receiving State prior to the authorization of transfers;**
- **The prohibition, by the same token, of transfers of conventional weapons that have not been expressly authorized by competent governmental authorities of all States involved in the transition;**
- **The obligation to ensure that all newly manufactured small arms and light weapons, as well as all small arms and light weapons to be subject to an international transfer, are marked in accordance with the provisions of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, and/or the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;**
- **The maintenance of detailed records containing all relevant information related to transfers of conventional weapons that may be necessary to enable States to comply with their obligations as regards cooperation to trace such weapons. From the time of the adoption of the instrument, records pertaining to transfers of conventional weapons should be kept indefinitely;**
- **Penal and administrative sanctions for natural or legal persons acting in violation of the provisions of the instrument. In order to avoid loopholes, such penal and administrative sanctions should be extended by a State party to the instrument to any activities prohibited by the instrument undertaken anywhere by natural persons possessing its nationality, in conformity with international law;**
- **Procedures to ensure cooperation among competent national authorities, with a view to preventing, combating and eradicating the illicit trade in conventional arms, in small arms and light weapons and in ammunition for small arms and light weapons, including, inter alia, by cooperating in the tracing of illicit transfers and in the identification of individuals or groups responsible for such illicit transfers, for the purpose of enforcing relevant penal or administrative sanctions.**

24. The instrument should also include mechanisms to monitor its implementation. Measures in this regard should be based, inter alia, upon the framework of the

United Nations Register of Conventional Arms and should include, in particular, an obligation to submit annual reports on international transfers of conventional arms.

25. In addition, Brazil proposes that the instrument include provisions related to the implementation of a taxation mechanism for the trade in conventional weapons. The main rationale for this tax is that it would constitute an innovative mechanism for the financing of actions against poverty and hunger, and at the same time would contribute to bringing greater transparency and accountability to the arms trade. It would send an important symbolic and political signal to the international community, especially in terms of making the linkage between socio-economic development and international peace and security more explicit.

26. Another fundamental aspect is the need to ensure universalization of the instrument, in particular as regards participation by all significant arms producers and exporters, in order to avoid the possibility that the instrument limit itself to shifting global patterns of the trade in conventional arms, in small arms and light weapons and in ammunition for small arms and light weapons in favour of States that are not subject to its provisions. This issue must thus be taken into account in the discussions on the mechanism for the international entry into force of the instrument. In parallel, ways to encourage prompt universalization of the instrument should also be considered.

Conclusion

27. In the light of the above, Brazil stands ready to actively contribute to the discussions on a possible legally binding instrument related to the trade in conventional arms, in small arms and light weapons and in ammunition for small arms and light weapons, which will be initiated in the framework of the group of governmental experts referred to in paragraph 2 of United Nations General Assembly resolution 61/89, on the basis of the report to be submitted by the Secretary-General summarizing the views expressed by States in response to the present round of consultations.

Bulgaria

[Original: English]
[27 April 2007]

Introduction

1. Fully sharing international concerns about the negative consequences of illegal and irresponsible conventional arms transfers, Bulgaria was among the co-sponsors of General Assembly resolution 61/89. We remain committed to the early adoption of a comprehensive, legally binding international treaty that introduces common standards and principles to regulate the global trade in conventional arms.

Feasibility

2. Bulgaria notes with satisfaction the wide support for launching a United Nations-based process aimed at achieving an agreed regulatory framework for arms transfers (an arms trade treaty). We believe that such a treaty should be comprehensive in nature, setting out clear benchmarks to deter illicit trade in conventional arms and to provide for compliance.

3. Lessons learned from existing cooperative endeavours at the international, regional and subregional levels, whether legally or politically binding, constitute a promising foundation to build upon. Also, the 1998 European Union Code of Conduct on Arms Exports could offer added value in identifying best practices and working methods to assess transfer applications against a set of commonly agreed criteria.

Scope

4. Transactions covered. As provided for under General Assembly resolution 61/89, the instrument should lay out clear principles and standards on the import, export and transfer of conventional arms. In a broader sense, the scope of the transactions covered should be understood to include as well other important activities such as brokering, transportation, transit and trans-shipment.

5. Items covered. We believe that the new instrument should cover all conventional arms, including ammunition, in line with the categories of the United Nations Register of Conventional Arms. Alongside large calibre weapons, the arms trade treaty should also encompass small arms and light weapons (SALW), MANPADS, as well as main components and production technology. The items covered should be clearly defined and laid out in a detailed annex, as exemplified by existing lists of controlled items such as the Wassenaar Arrangement Munitions List and/or the EU Common List of Military Equipment.

Draft parameters

6. Bulgaria believes that the instrument should be legally binding and it should cover inter-State transactions, including Government-to-Government transfers. The draft parameters should enumerate a set of basic standards to be met when assessing applications, under the following core chapters:

- International obligations and commitments, including United Nations Security Council sanctions and embargoes;
- Non-proliferation and arms control;
- International humanitarian law and international human rights law, including human security and development;
- Regional stability and international security;
- Fighting international terrorism and organized crime.

7. The draft modalities should allow for applying the common standards without hindering the right to individual or collective self-defence, as defined in Article 51 of the Charter of the United Nations, and without limiting the right of States to produce defence items and to procure for their legitimate defence needs and participation in peace support operations.

8. While the future arms trade treaty should introduce commonly agreed standards, the final decision to authorize or deny a transfer should remain a national responsibility. Increased transparency and information-sharing are vital for achieving the arms trade treaty objectives. As appropriate, relevant modalities allowing for bilateral and/or international exchanges, support and assistance could be considered. As a way of monitoring compliance, we believe that a reporting

mechanism should be envisaged, included through the distribution of national reports in a harmonized form.

Burkina Faso

[Original: French]
[18 June 2007]

1. The poorly regulated and illegal arms trade foments conflicts, entails flagrant violations of human rights and international humanitarian law and destabilizes whole countries and regions.

2. Aware of the seriousness of this situation, States have undertaken to prevent and combat the problem through several regional and multilateral agreements.

3. However, despite the many agreements and the efforts made, most of the regional and multilateral instruments on the trade in and circulation of arms are inadequate because they do not succeed in regulating effectively the monitoring of arms transfers.

4. It is therefore absolutely essential to make progress towards the preparation of an international instrument on the monitoring of arms transfers, which, with the cooperation of all concerned, will be able to better regulate the arms trade.

5. In order for such an endeavour to succeed, particular attention must be paid to a number of factors.

Feasibility

6. An arms trade treaty will be feasible only if it is based not only on States' rights, but also on their obligations under international law.

7. These rights and obligations are established in many regional, multilateral and international instruments which States have developed in order to regulate the arms trade.

8. In accordance with international law, an arms trade treaty should explicitly recognize States' right to acquire arms; it must not infringe on this right.

9. However, while the arms trade treaty must recognize States' fundamental right to acquire arms for purposes clearly established by international law, it must also take into account the obligations which States have voluntarily incurred and which are the expression of their legal commitments at the international level.

10. Above all, in order for the arms trade treaty to be feasible, States must demonstrate genuine political will, and cooperation and confidence between States must be encouraged through a concerted, transparent effort to monitor the trade in small arms and light weapons.

Scope

11. The following proposals are based essentially on the provision of the Economic Commission of West African States (ECOWAS) Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, adopted at Abuja on 14 June 2006. Thus, the arms trade treaty should:

(a) Ban all international transfers of small arms, with the exception of arms needed in order to meet legitimate defence and security needs or to participate in peacekeeping operations. These exemptions shall be granted on the basis of an opinion given by an as-yet-to-be-determined body, taking into account criteria that reflect many of the obligations incumbent on States under international law and, in particular:

- **The resolutions imposed by the Charter of the United Nations, including:**
    - **Binding resolutions of the Security Council such as those imposing arms embargoes;**
    - **The prohibition of the use or threat of use of force; and**
    - **The prohibition of intervention in the internal affairs of another State;**
- **Universally accepted principles of international humanitarian law; and**
- **Any other treaty or decision by which the Member States are bound.**

(b) A transfer should be banned if the arms are destined to be used:

- **For the violation of international humanitarian law or infringement of human and peoples' rights and freedoms, or for the purpose of oppression;**
- **For the commission of serious violations of international humanitarian law, genocide or crimes against humanity;**
- **To worsen the internal situation in the country of final destination by provoking or prolonging an armed conflict or aggravating existing tensions;**
- **To carry out terrorist acts or support or encourage terrorism; or**
- **Other than for the legitimate defence and security needs of the beneficiary country.**

(c) A transfer should be banned if it is destined to:

- **Be used for or to facilitate the commission of violent or organized crime;**
- **Adversely affect international security, endanger peace, contribute to the destabilization or uncontrolled accumulation of arms or military capabilities in a region or otherwise contribute to regional instability;**
- **Hinder or obstruct sustainable development and unduly divert human and economic resources to armaments of the States involved in the transfer; or**
- **Give rise to corrupt practices at any stage.**

(d) A transfer should be banned if it is likely to be diverted within the transit or importing country or to be re-exported for unauthorized uses, by unauthorized users or into the illicit trade.

12. In order to be effective, the arms trade treaty must not only envisage a system for controlling the cross-border movement of all conventional arms and related equipment; it must also be applicable to all aspects of the conventional arms trade.

13. With respect to the system for monitoring the cross-border movement of arms, the arms trade treaty should cover the import, export, transit, trans-shipment and brokering of all conventional weapons, including:

- **Heavy arms;**
- **Small arms and light weapons;**
- **Parts and components of all such arms;**
- **Ammunition, including explosives;**
- **Technologies for the manufacture of conventional arms;**
- **Arms used for internal security purposes; and**
- **Dual-use items destined to be used for military, security or law enforcement purposes.**

The treaty should also take arms marking and tracing into account.

14. With respect to aspects of the conventional arms trade, the arms trade treaty should apply to:

- **Transactions between States;**
- **Transactions between States and a private end-user;**
- **Commercial sales;**
- **Rentals;**
- **Loans, gifts or any other form of transfer.**

15. The effectiveness of an arms trade treaty will also depend on its capacity to address issues which, while sensitive, are essential. The treaty should set forth, as exhaustively as possible, the responsibility of States and the sanctions incurred for any violation of its international provisions.

General parameters

16. The following remarks do not address the issue of "parameters" exhaustively; they merely list points that could be included. Thus:

(a) The treaty should focus on the commitments which States have already made and which are established in many regional, multilateral and international agreements and instruments since these commitments are binding on them.

(b) In their transactions, States should take into account the use to which the arms will be put before authorizing their transfer. It is important to ensure that the recipient State respects the commitment to and obligation of transparency with respect to non-proliferation; to the monitoring of arms and ammunition; and to disarmament.

(c) States should prepare annual reports on all their international arms and ammunition transfers. These reports should be compiled in an international register, which should be published.

(d) At the national level, States should establish common regulations concerning specific mechanisms for monitoring all imports of arms and ammunition, arms and ammunition brokering activities, transfers of arms and ammunition production capacity, and the transit and trans-shipment of arms and ammunition.

(e) States should take steps to monitor the implementation and review procedures in order to ensure respect for the principles.

(f) The arms trade treaty should include provisions authorizing the prosecution of arms brokers in the territory of any State party thereto.

Conclusion

17. In order to be operational, the arms trade treaty should be based on the many existing international agreements and instruments. It should both emphasize the commitments and obligations of States and take into account their right to acquire arms in accordance with international law.

18. While States must be held responsible for any violations of the treaty, their voluntary commitment to respect its provisions is essential. To that end, States, having often demonstrated their intent by observing the existing international norms in this area, must assume ownership of the new arms trade treaty.

Canada

[Original: English]
[30 April 2007]

Introduction

1. Canada co-sponsored United Nations General Assembly resolution 61/89 calling for a comprehensive legally binding instrument establishing common international standards for the import, export and transfer of conventional arms. We were also heartened by the overwhelming support this initiative received among Member States at the United Nations on 6 December 2006. We commend the United Kingdom for taking a leadership role on this file, as well as Argentina, Australia, Costa Rica, Finland, Japan and Kenya for their work in support of these aims.

2. Canada has developed extensive transfer control and enforcement mechanisms in the field of conventional armaments. We are aware, however, that while a variety of voluntary and regional mechanisms have been established, there exists no single comprehensive universal instrument guiding the trade in conventional weapons. We believe that an arms trade treaty will provide a transparent framework of universally applicable standards for States to follow.

3. We concur with the principle that States must be aware of, understand and adhere to their existing treaty obligations and customary international law. This includes the right of States to meet their own defence and security needs, and needs relating to their participation in international peace support operations, both through domestic production and through the responsible importing of arms. The export of arms to help other nations meet their defence and security needs is also valid in Canada's view.

4. Against this, however, are countervailing considerations that need to be addressed. These include the need to prohibit arms transfers that breach international sanctions regimes, exacerbate and prolong conflicts, destabilize countries, allow arms to flow from the legitimate to illicit markets, support terrorism, undermine sustainable development and aid in the commission of serious human rights abuses.

5. For this reason, Canada believes that a comprehensive legally binding international instrument establishing common international standards for the import, export and transfer of conventional arms is in the interest of both individual States and the broader international community.

Feasibility

6. Canada recognizes that while it will not be a simple task, the aim should be to agree on a comprehensive legally binding instrument that will ensure that all conventional arms transactions are subject to a prior assessment by States of the risk that they will be unlawful or have a serious negative impact, contrary to agreed upon principles. If the risks are too high, they should not be authorized.

7. An arms trade treaty is feasible as it would build on arms transfer principles that are already well established. We therefore commend the efforts of regional organizations such as the Organization for Security and Cooperation in Europe, the Economic Community of West African States and the Organization of American States. We note that the Participating States of the Wassenaar Arrangement adopted a set of Best Practice Guidelines for Exports of Small Arms and Light Weapons. Each participating State affirmed that it applies strict controls over small arms exports and that it will avoid issuing licences for export where it deems that there is a clear risk that the small arms in question might contravene its international obligations (for example, United Nations arms embargoes), prolong or aggravate an existing armed conflict, be used for the violation or suppression of human rights or endanger peace or regional stability.

8. The conclusion of numerous regional and multilateral agreements to control the international transfer of conventional arms over the past decade reflects a growing realization that the problem of such arms proliferation can only be effectively addressed through collaboration among States based upon their existing international obligations.

9. The level of existing agreement among a large number of States provides an important foundation for the development of an arms trade treaty that reflects and builds upon current State international legal obligations.

10. We have clearly made progress in addressing key areas of concern. For instance, the international community has made significant headway in addressing the problems of weapons of mass destruction through the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention, and the Biological and Toxin Weapons Convention. Additionally, there has been progress in other forums relating to the area of anti-personnel landmines and other conventional weapons. But gaps remain. Most notably, there are a significant number of States that are not party to any regional or multilateral arms transfer control agreements. It is therefore, in our view, time to begin negotiations towards a comprehensive legally binding arms trade treaty to establish norms applicable to the trade in all conventional weapons.

11. The increasing globalization of the illicit international arms trade, and the lack of effective export controls to stop it, and its consequent deleterious effects on sustainable development prospects, have raised a compelling argument in favour of a global system of controls that will comprehensively regulate all aspects of this trade. Canada believes that in order to curb the illicit trade in arms, Government sanctioned trade in arms must be clearly defined and properly regulated according to

objective common standards based upon relevant principles of international law. It is through the codification of existing State responsibilities under international law and their implementation through national laws, regulations and procedures that the appropriate distinction between illicit and licit trade will become clear, and the illicit diversion, proliferation and misuse of arms can be overcome. One of the main objectives of an arms trade treaty will be the development of common international standards to ensure the responsible international transfer of conventional arms. This will ensure that all transferred weapons and munitions end up in the hands of responsible end-users.

12. The vote on resolution 61/89 in the General Assembly on 6 December 2006 demonstrated that the overwhelming majority of States believe that the time has come to negotiate a legally binding arms trade treaty. This reflected positively on the will of a wide range of States to approach this important issue from a constructive perspective.

Scope

13. Canada recognizes that States have the right to acquire conventional arms for legitimate individual and collective self-defence and law enforcement needs, and in order to participate in peace support operations in accordance with international law. Resolution 61/89 acknowledges that this right is also accompanied by responsibility. An arms trade treaty should not minimize or detract from this fundamental right of States but must recognize that there are other considerations that States must address with respect to the transfer of arms.

14. Canada also believes that an instrument must cover all conventional weapons, including small arms and light weapons, man portable air defence systems (MANPADS), main battle tanks and armoured fighting vehicles, combat aircraft, warships and conventionally armed missiles. The question of munitions for the above-noted equipment, the technology to produce and maintain such equipment and weapons parts and components are complex issues. Canada believes that the group of governmental experts to be established should consider these matters carefully as well as coverage of dual-use items directly relevant to the above arms, munitions and production technology, and monitoring, verification and enforcement issues. Common international standards will need to be set out in a way which can be easily understood by industry and by those responsible for regulating the arms trade.

15. Canada strongly believes that an instrument should be confined to transfers which will involve arms or related technology moving from the territory of one State to that of another State, including Government-to-Government or State-to-State transfers. An instrument should not cover transfers within a State. An instrument also should not impose restrictions on how arms may be acquired, held or used within a State's territory. Furthermore, an instrument should not place overly burdensome controls on the movement of privately owned firearms and should respect the existing and legitimate interests of firearms owners, producers, brokers and retailers.

Parameters

16. Key elements of an arms trade treaty will be an agreement on establishing legally binding international standards which States agree to follow. We concur with

the position of the United Kingdom that the collation of existing treaty and customary international legal standards, including the need to comply with Security Council resolutions in accordance with the Charter of the United Nations, marks an important first step. Existing obligations under the Geneva Conventions and other relevant treaties must also be respected. We believe that the principles established by the non-governmental organization Arms Trade Treaty Steering Committee provide a useful framework as a set of core global principles around which to begin negotiations. We would note that Canada already adheres to following five of these six principles — the responsibility of States, express limitations, limitations based on use or likely use, factors to be taken into account and transparency. Comprehensive controls, in Canada's view, would require more clarification and elaboration between States to arrive at a common set of principles.

17. We suggest that the following considerations should be among those which States must consider when deciding whether or not to approve an arms transfer:

- Will it directly breach international or regional obligations?
- Will the arms be diverted to a use that would breach an international or regional obligation?
- Will the arms be used for serious violations of international humanitarian or human rights law?
- Will arms be diverted for use in terrorist acts?
- Will the transfer contribute to the destabilization of countries or regions?
- Will the transfer provoke or exacerbate internal and regional conflicts?

If the answer to any of these questions is "yes", the State should be required to refuse permission for the transfer. We would anticipate that an arms trade treaty would establish minimum standards to which States would agree to comply, and that they may decide to apply higher standards at a national level.

18. It will be important for the agreed standards to be applied in as transparent a manner as possible. Canada supports inclusion of a requirement that States share information relating to the transfers that they approve or reject. A mechanism will be needed to ensure that this information is made available to all States. While the specifics of this mechanism is an area for the group of governmental experts to consider, the mechanisms used by the Wassenaar Arrangement may provide a basis upon which such information-sharing can be identified and framed.

Conclusion

19. Considering the danger posed to States and their populations by the persistent and flagrant misuse of weapons and munitions and at a time when the conventional arms trade has become increasingly global and differential in nature, no individual country is immune from the risk of conventional arms proliferation. States must therefore assist each other in preventing all types of conventional weapons and technology from falling into the wrong hands. A comprehensive arms trade treaty based upon relevant principles of international law and standards should be the cornerstone of such a coordinated international effort.

20. To be effective, an arms trade treaty must allow for legitimate international transfers of conventional arms required for States' individual and collective self-

defence and law enforcement needs, and in order to participate in peace support operations, in accordance with international law. But an effective arms trade treaty must no dilute existing international standards applicable to arms transfers or contain ambiguous language that leads to different interpretation by States of those obligations.

21. An arms trade treaty, by broadening the application of transfer principles, will overcome the current approach of States attempting to use variable national and regional instruments to control international transfers of conventional arms, and provide all States with the strong common international standard necessary to ensure a responsible arms trade. With the consequent reduction in the number of weapons and munitions being diverted to those who undermine human, national and international security, such an arms trade treaty will greatly benefit not only those communities, States and regions where arms proliferation and misuse are widespread, but would also improve the prospects for increased security worldwide.

22. Canada looks forward to working with the international community in order to advance the negotiations of an arms trade treaty in the near term future.

Colombia

[Original: Spanish]
[24 April 2007]

Introduction

1. Echoing the preamble of resolution 61/89, adopted by the United Nations General Assembly in December 2006, the Republic of Colombia supports the desire to work towards the establishment of an arms trade treaty.

2. To that end, upon adoption of the General Assembly resolution, the State of Colombia:

- Acknowledges the right of all States to manufacture, import, export, transfer and retain conventional arms for its legitimate self-defence and security needs;
- Acknowledges that arms control, disarmament and non-proliferation are essential to the maintenance of international peace and security;
- Reaffirms the content of Article 51 of the Charter of the United Nations, which mentions the inherent individual right of States to self-defence; and
- Reaffirms its respect for international law, including international human rights standards, international humanitarian law and the Charter of the United Nations.

Feasibility

3. The feasibility of the arms trade treaty is ensured by its subject matter, which has already been validated by the relevant regional, subregional, multilateral and international instruments that provide a solid basis for the negotiation of an arms trade treaty.

4. Colombia considers that it will not be possible to implement this treaty unless it reflects all the points of view, interests, needs, rights and obligations of all those involved in the various stages of the legal arms trade. This treaty should set forth the

responsibilities of each of these parties in preventing the legal arms market from being diverted into an illegal market.

5. Furthermore, without the participation of all States, and particularly those capable of spearheading and guiding international policy on the sale of, trade in and control of arms, the treaty's effectiveness and genuine implementation will be greatly reduced. A treaty cannot be negotiated at the international level unless it succeeds in condensing and replacing those which already exist in this field.

6. One element that would increase the feasibility of an arms trade treaty is consideration of the various forms of violence and insecurity that affect all nations at the domestic level. An arms trade treaty cannot affect the State's obligation to meet the security needs of its population and to control its territory. All States are subject to different types of armed violence, whether rural, urban, ethnic, religious, political, social or economic. Thus, the arms trade treaty will need to ensure that the State has access to the legal arms market in order to counter such manifestations of violence in a legitimate manner.

7. The lack of a legally binding instrument has hindered the standardization, integration and uniform, coordinated implementation of instruments on the arms trade, as well as progress in their regulation and regularization. A comprehensive, legally binding trade treaty could promote the reduction of all forms of violence and the maintenance of national and international peace and security.

8. These positive effects stem from the potential to mitigate the lethal and non-lethal impact of armed violence on human security and, in particular, to reduce intentional violence caused by firearms, which is associated primarily with the use of conventional arms obtained through illegal trafficking.

9. This illegal trafficking is the cause of most violations of human rights and international humanitarian law; it is therefore imperative that the treaty should envisage increased controls on transfers in order to prevent this lethal trafficking and its terrible impact and humanitarian cost. All controls that seek to prevent human rights violations should be applied objectively, following criteria whose transparency and mechanisms for information exchange and consultation set a standard that ensures their credibility, their legitimacy, and therefore their effectiveness.

Scope

10. An arms trade treaty should include a comprehensive system for monitoring the international and cross-border movement of all conventional arms, spare parts, ammunition, explosives and similar items and other related components and technology. It should also cover the import, export, transfer, transit, transport, trans-shipment and brokering of all conventional arms, such as heavy weapons, small arms and light weapons, their parts and components, their spare parts and accessories, ammunition (including explosives), conventional arms manufacturing technology, arms used for internal security and dual-use items to be used for military, police or security purposes.

11. An arms trade treaty should promote the development of clear national procedures for regulating international arms transfers; prevent and combat illegal arms transfers; have a mandate that ensures respect for embargoes imposed by the United Nations; establish mechanisms to prevent the diversion of arms, ammunition

and explosives to illegal armed groups and non-State actors operating outside the law; and prohibit transfers that violate the legal obligations assumed under international law and standards.

12. An arms trade treaty should prohibit transfers where there are clear signs that they will have a negative impact on the internal security of a State or that they will be used to commit a crime against humanity or a serious violation of international humanitarian law or international human rights law.

13. However, there must be a balance between this prohibition and States' right to self-defence, enshrined in the Charter and recognized in resolution 61/89, and by their responsibility to protect their citizens from the various types of violence that affect them.

14. An arms trade treaty should recognize the duty and the role of States with respect to the control and regulation of firearms.

15. An arms trade treaty should envisage the inclusion of a chapter on the peaceful settlement of disputes in anticipation of specific situations, such as where a purchase and sale contract already exists and doubts regarding approval of the transfer or import arise. It should include an exhaustive list of the sanctions applicable to a purchasing country that allows arms to be diverted to the illegal market where State officials are involved and should require States to punish Government officials involved in illegal trafficking in arms and ammunition with penalties proportional to the seriousness of such offences.

16. An arms trade treaty should establish standards for marking in order to establish the provenance of arms or, at a minimum, should require the maintenance of a universal marking registry so that they can be compared and identified. It should include standards to ensure the legal safety and objectivity of transactions, provide for dispute settlement mechanisms and make its implementation mandatory.

17. The treaty should include specific commitments to cooperate in the following areas:

- **Legal: exchange of information on matters such as tracing, evidence and ballistic fingerprints;**
- **Technical: assistance, capacity-building and training in new technologies;**
- **Trade: establishment of mechanisms to facilitate controls on, inter alia, exports, imports and transfers of arms, ammunition, spare parts and machinery; and**
- **Financial: with a view to full implementation of the treaty.**

Parameters

18. The treaty should be a genuinely multilateral and global convention of the United Nations and the regional organizations in accordance with the Charter. Thus, the Secretary-General's role as depositary of the instrument will insure its implementation once it enters into force.

19. The arms trade treaty should respect the existing criteria established in the relevant international treaties; customary international law; the principles recognized by the United Nations, such as international humanitarian law and

international human rights law; and the articles on responsibility of States for internationally wrongful acts.

20. States are responsible for all legal arms transfers within their jurisdiction and should regulate them. States should examine all international arms transfers in light of three categories of restrictions under existing international law:

- Specific prohibitions of a State that prevent it from transferring arms in certain situations on the basis of existing prohibitions concerning the manufacture, possession, use and transfer of arms;
- Prohibitions based on compliance with the arms embargoes established by the United Nations Security Council;
- Prohibitions based on the probable use of arms, particularly where it is possible that they will be used to commit serious violations of international humanitarian law or international human rights law. This prohibition should envisage consultative mechanisms that make it possible to apply these prohibitions in a manner that does not violate States' right to self-defence or their responsibility to protect and ensure the security of persons.

21. As recognized in resolution 61/89, arms control, disarmament and non-proliferation are essential to the maintenance of international peace and security; States should be called upon to strengthen their comprehensive citizen disarmament campaigns with a view to creating awareness, collecting arms that are circulating illegally and reducing their proliferation. As part of the principles and guidelines that should govern international transfers of conventional arms, in addition to those recognized by existing international law, voluntary disarmament campaigns should be conducted in cooperation with civil society in order to inform and educate citizens.

22. The treaty should establish clear measures and procedures for the collection, stockpiling and final disposal of the arms possessed by States. Projects that help reduce demand through education and conciliation should also be promoted.

Other features

23. Colombia considers that States should agree to set up a treaty monitoring and implementation mechanism which, within a reasonable period, will begin impartial and transparent investigation of reported violations of the instrument and establish appropriate penalties for violators.

24. The treaty should also envisage the establishment of national contact and liaison points, including identification of the department and officer concerned, and the provision of requisite support for any situation that may arise during the transfer of arms between States.

25. The arms trade treaty should establish regional bodies responsible for settling disputes and for monitoring and promoting the treaty in the geographical areas under their jurisdiction.

26. In the event of a disagreement or dispute concerning the implementation of the treaty, the principle of conciliation or any other mechanism for the peaceful settlement of disputes should always prevail.

27. Implementation of the arms trade treaty will require political, financial and technical efforts. It is therefore necessary to include mention of cooperation mechanisms for that purpose.

Conclusions

28. Colombia believes that resolution 61/89 is a great opportunity for the international community that will make it possible to make real and significant progress in regulating the legal arms trade at the international level and, ultimately, controlling illegal trafficking.

29. Colombia has spearheaded the fight against illicit trafficking in small arms and light weapons at the global, regional, subregional and bilateral levels and places its experience and leadership capacity at the international community's disposal in order to carry this initiative forward.

30. As a country that has been a victim of this lethal traffic, Colombia has been developing significant institutional and technical capacities. Therefore, we are now one of the most advanced countries in terms of the marking of arms and ammunition, export controls and tracing. Colombia remains a country that is prepared to share its experience and its achievements with other countries with a view to implementation of the arms trade treaty.

31. In combating the illicit trafficking of small arms and light weapons, Colombia has been developing and establishing inter-institutional bodies that have worked interactively and productively to design comprehensive, inclusive and consensual policies to attack this multidimensional scourge. As a result of this working methodology, Colombia also has broad national consensus on the need to meet the challenges of this transnational phenomenon.

32. Colombia has been working closely with civil society in order to combat illegal trafficking and to develop citizen disarmament programmes at the national level, with very positive results. The partnership between the Government and civil society in combating illicit trafficking in small arms and light weapons has produced these results. This report reflects the point of view of civil society and its contribution to preparation of the future arms trade treaty.

33. Lastly, in the light of the above, it is entirely legitimate for Colombia to seek to participate in the group of experts that will study and draft the text of this future treaty, and it thanks the Office of the United Nations High Representative for Disarmament Affairs for its consideration.

Costa Rica

[Original: Spanish]
[27 April 2007]

Introduction

1. The Republic of Costa Rica, together with Argentina, Australia, Finland, Japan, Kenya and the United Kingdom, submitted for the consideration of the General Assembly at its sixty-first session a draft resolution which had originated in an initiative launched in 1997 by the Nobel Peace Laureate and President of Costa Rica, Dr. Oscar Arias Sánchez and 20 other laureates. The draft resolution, by the

General Assembly as resolution 61/89, received 137 votes in favour, 28 abstentions and 1 vote against, which represents solid and robust support for the desire to have a legally binding international instrument establishing common international standards for the import, export and transfer of conventional arms.

2. The effects of the arms trade are devastating, with over 45 million people currently suffering the consequences of wars. Around a thousand people a day die from armed violence. Such violence is the leading cause of food emergencies worldwide. It is estimated that the small arms trade amounts to around $40 billion per year, with most of the buyers found in developing countries. President Arias, in his statement to the General Assembly at its sixty-first session, introduced the initiative and reported that in 2005 the countries of Latin America had spent almost $24 billion on weapons and troops, an amount that had risen 25 per cent in real terms over the last decade, while the gross domestic product had declined by 12 percentage points per year.

3. Those figures are the best argument for the arms trade treaty. According to President Arias, "The idea is simple: prohibit countries from transferring weapons to States, groups or individuals if there is reason to believe that these arms will be used to violate human rights or international law, or if there are clear indications that they will be used to harm sustainable development."

Feasibility

4. In order for an arms trade treaty to be effective, it must be based on the entire spectrum of responsibilities undertaken by States under international law, such as guaranteeing respect for international human rights law, international humanitarian law and sustainable development. Legally binding international instruments include:

- The Charter of the United Nations;
- The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects;
- The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition Protocol to the United Nations Convention against Transnational Organized Crime.

Politically binding international instruments:

- Guidelines for Conventional Arms Transfers of the Security Council Standing Committee;
- United Nations Register of Conventional Arms;
- Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

Legally binding regional instruments:

- Inter-American Convention against the Manufacture and Illicit Trafficking in Firearms, Ammunition, Explosives and Other Related Materials (CIFTA);

- Inter-American Convention on Transparency in Conventional Weapons Acquisitions.

Politically binding regional instruments:

- Principles Governing Conventional Arms Transfers of the Organization on Security and Cooperation in Europe (OSCE);
- European Union Code of Conduct on Arms Exports;
- OAS Model Regulations for the Control of the International Movement of Firearms Their Parts and Components and Ammunition;
- Antigua (Guatemala) Declaration on the Proliferation of Light Weapons in the Central American Region;
- Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Materials of the Central American Integration System (SICA).

5. As a whole, these and other instruments are basic components of a future arms trade treaty. The majority of States agree that the proliferation and indiscriminate use of conventional weapons can only be addressed through international cooperation.

Scope

6. Costa Rica is guided by the following principles with reference to the scope of the treaty:

- First, the treaty should be legally binding for all conventional weapons, because pistols and rifles are just as deadly as military helicopters or tanks.
- Second, it does not matter whether an arms shipment is intended to supply a Government, an organization or an individual. If the risk of destruction is the same, the same rules should apply to the transfer.

7. Having established the foregoing, a potential list could include:

- Battle tanks
- Armed combat vehicles
- Large-calibre artillery systems
- Combat aircraft
- Combat helicopters
- Warships
- Missiles and missile launchers
- Small arms and light weapons (SALW), including man-portable air defence systems (MANPADS)
- Landmines and anti-personnel mines
- Ammunition, including for small arms and light weapons and explosives
- Submunition dispersion weapons ("cluster bombs")

- Components for this type of weapon
- Technology specifically designed for the manufacture of this type of weapon

8. In addition to the "import, export and transfer" mentioned in the resolution, the importance of including "transit, trans-shipment and brokering", as well as dual-use goods that are to be used for military, police or security purposes, should be considered. The need for mechanisms, formats and deadlines for submission of reports should also be considered.

Parameters

9. The fundamental parameters to be considered when contemplating an arms transfer should be whether such a transfer:

- Violates any international or regional commitment;
- Will be used to commit serious violations of international humanitarian or human rights law;
- Will be used to promote terrorist acts;
- Will be used to commit violent crimes;
- Will be used to provoke or aggravate internal or regional conflicts;
- Will be used to destabilize countries or regions;
- Will be used to destabilize the economy or the development of the importing country;
- Will be diverted to any of the uses mentioned.

10. It should be made clear that these parameters are the minimum that a State should apply, and that it is free to use more stringent criteria. In order to obtain the desired results, the commitments made under the treaty must be verifiable. Therefore, an effective monitoring mechanism must be included based on sharing of information, as well as investigation and prosecution of violations. Likewise, measures should also be included for States that do not meet their obligations. For this purpose, efforts to mark and trace arms must be increased.

11. The need for resources for the implementation of the instrument must be considered. A permanent or semi-permanent secretariat could be necessary, as a point of contact for the submission of reports and national periodic reports and for information-sharing. This structure should not duplicate the tasks of other existing bodies, nor affect the commitments made pursuant to international legal instruments signed by States.

Conclusion

12. Costa Rica is submitting for the consideration of the international community these views on the feasibility, scope and parameters of an arms trade treaty in the spirit of its multilateralist and antimilitarist foreign policy. Costa Rica calls on all States Members of the United Nations to comply with the request by the Secretary-General in order to advance the work of the group of governmental experts scheduled in 2008.

Côte d'Ivoire

[Original: French]
[26 April 2007]

Introduction

1. Côte d'Ivoire is a member of the Economic Community of West African States (ECOWAS), and ECOWAS is the only subregional organization in the world which has a convention on arms. On 14 June 2006, by transforming its Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons in West Africa into a convention, ECOWAS took the lead in international efforts to combat small arms. The establishment of mandatory standards on arms transfers is therefore nothing new for the Member States of this subregion, including Côte d'Ivoire. Moreover, Côte d'Ivoire has taken an active part in this process. That is why the contribution provided below is by no means independent. It must be aligned with any position which may be adopted by ECOWAS and/or the African Union.

2. The comments and views of Côte d'Ivoire are evidently based on the criteria and principles that guided the preparation and led to the adoption of the text of the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials.

Scope

3. It would be desirable for the international arms trade treaty to apply not only to small arms and light weapons (as defined in 1997 by the Panel of Governmental Experts on Small Arms but also, and especially, to ammunition, as well as, inter alia:

- Heavy weapons (such as main battle tanks and fighter aircraft);
- Small arms and light weapons;
- Parts and components for all the foregoing arms;
- Ammunition, including explosives;
- Technologies used to manufacture conventional weapons;
- Arms used for domestic security purposes; and
- Dual-use goods for military, security or law enforcement purposes.

4. The treaty should also take brokering activities into account.

5. The international arms trade treaty should apply at all the stages of authorization and verification in the course of a transfer: exports; imports; and all intermediate operations and activities (transport, re-export, temporary storage, transit and end use); arms are exported and imported, and they may pass from the jurisdiction of one State to another as they are shipped or trans-shipped. The scope of the international arms trade treaty should cover each of these aspects of international arms transfers.

Principles and guidelines

6. These principles and guidelines should be based on the best general rules for effective control of international transfers of all conventional arms and ammunition.

The rules reflect States' obligations under international law while also recognizing States' right to legitimate self-defence and law enforcement in accordance with international standards. The following points should therefore be emphasized in any international arms treaty:

Responsibilities of States. International transfers of arms and ammunition shall be authorized by all States with jurisdiction over any part of a transfer (including import, export, transport, trans-shipment and brokering) and carried out in accordance with national laws and procedures that reflect, as a minimum, States' obligations under international law. Authorization of each transfer shall be granted in writing by the State representatives designated for this purpose and shall not be granted if it is likely that the arms or ammunition will be diverted from their intended legal recipient or re-exported.

Express limitations. States shall not authorize international transfers of arms or ammunition that violate their obligations under international law concerning arms, including:

- Obligations arising under the Charter of the United Nations (including binding decisions of the Security Council such as those imposing arms embargoes; the prohibition of the threat or use of force; and non-intervention in the internal affairs of another State);
- Any other treaty or decision by which the State is bound (including binding decisions, including embargoes, adopted by international, multilateral, regional or subregional organizations of which the State is a member; prohibitions on arms transfers that arise in particular treaties to which the State is a party, such as the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and its Protocols, as well as the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction);
- Universally accepted principles of international humanitarian law (prohibition of the use of arms of a nature to cause superfluous injury or unnecessary suffering; prohibition of arms and ammunition that are incapable of distinguishing between combatants and civilians).

Limitations based on use or likely use. States shall not authorize international transfers of arms or ammunition when they will be used or are likely to be used or liable to be used to commit violations of international law (including breaches of the Charter of the United Nations and customary law rules relating to the use of force; gross violations of international human rights law; serious violations of international humanitarian law; and acts of genocide or crimes against humanity).

Transparency. States shall submit national annual reports on all their international arms and ammunition transfers to the United Nations international registry, which shall compile and publish a comprehensive international annual report. Such reports should cover the international transfer of all conventional arms and ammunition.

Comprehensive controls. States shall establish common standards for specific mechanisms to control all import and export of arms and ammunition; arms and ammunition brokering activities; transfers of arms and ammunition production capacity; and transit and trans-shipment of arms and ammunition.

Other factors to be taken into account

7. States shall take into account other factors, including the likely use of the arms or ammunition, before authorizing their transfer, including the recipient State's record of compliance with commitments and transparency in the field of non-proliferation, arms and ammunition control and disarmament. States should not authorize arms transfers if they are likely to:

- Be used for or to facilitate terrorist attacks;
- Be used for or to facilitate the commission of violent crimes;
- Adversely affect regional security or stability;
- Adversely affect sustainable development; involve corrupt practices; contravene other international, regional or subregional commitments or decisions made or agreements on non-proliferation, arms control and disarmament to which the exporting, importing or transit States are party.

Cuba

[Original: Spanish]
[21 May 2007]

1. In its resolution 61/89, entitled "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", the United Nations General Assembly sought the views of Member States on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms.

2. Cuba is of the view that the resolution addresses a most timely and important subject which may have ramifications in such varied sectors as security, politics, the economy, finance and trade, among others. The views set out below therefore should not exclude any of these potential sectors. The exercise to be undertaken is one of great complexity and sensitivity for States.

3. One of the most delicate issues in the discussion concerns the security aspects. International law guarantees the inherent right of States to self-defence. States have the right to manufacture, export, import and retain conventional arms to guarantee their security. An arms trade treaty cannot undermine these rights because that would take away its legitimacy, undermine its own effectiveness and weaken one of the cornerstones of any global regulatory instrument, namely, universality.

4. Cuba supported resolution 61/89 because it considers that States should adopt measures to ensure that the use of conventional arms does not affect innocent civilians when such arms enter the illegal market and fall into the hands of terrorists or common criminals, and it understands that international cooperation is sometimes necessary to suppress crimes or inhuman transnational activities through legally binding measures. Cuba is not opposed to a conventional arms trade treaty, provided that the treaty is not selective or discriminatory and does not interfere in the internal affairs of States without their agreement. Nor should the treaty constrain the ability of any country to defend itself.

5. The aim of the treaty cannot be to put an end to or to restrict the trade in arms. Rather, it should contribute to eliminating illicit trading. Resolution 61/89 itself recognizes the purposes and principles enshrined in the Charter of the United Nations and reaffirms the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter.

6. Cuba recognizes that the absence of common international standards for the export, import and transfer of conventional arms is a contributing factor to conflicts, crime and terrorism and therefore undermines peace, security, stability and sustainable development.

7. Cuba reiterates that, in order for a conventional arms trade treaty to be effective, each State must have adequate national controls and adopt concrete measures to strengthen and further develop their applicable internal laws and legal provisions.

8. Cuba is of the view that a conventional arms trade treaty should not establish procedures for the submission of information that endanger the national security of States.

9. Cuba is opposed to using a conventional arms trade treaty to globalize the narrow national agendas of any State with the aim of imposing national or regional doctrines, concepts and philosophies for political reasons or out of imperial desires. Nor will it support those who disregard the different national and regional realities and needs and the current security asymmetries in the world.

10. Cuba will participate in the discussion on a conventional arms trade treaty without forgetting the conditions under which it exists faced with the constant threats and hostility of the Government of the United States of America, the biggest and most developed Power in the world, including in terms of military power, which over the past five decades has committed numerous acts of aggression that have taken a high toll on the Cuban people in human lives and material damage.

Views on procedural aspects of the negotiations on a conventional arms trade treaty

11. Cuba views the exercise towards the adoption of a treaty as a step-by-step process that cannot be forced in terms of time nor imposed on States.

12. The negotiations should be conducted at all times transparently and under equal conditions for all States. The participation of all States, large and small, rich and poor, in all the negotiating forums which may need to be established must be guaranteed.

13. The negotiations should begin when there is clarity and consensus on the elements that should define the future treaty, some of which are listed in paragraphs 1 and 2 of General Assembly resolution 61/89.

14. The views expressed by States in response to resolution 61/89 and the report of the group of governmental experts referred to in paragraph 2 of the above-mentioned resolution should be the basis for future discussion of the feasibility or not of the treaty, which should take place during the sixty-third session of the General Assembly, as provided for in resolution 61/89.

Views on the feasibility, scope and draft parameters of a conventional arms trade treaty

15. No treaty will be effective if it is not supported by concrete measures by all States aimed at maintaining an effective national conventional arms control regime that provides for effective controls on the possession of arms by civilians, export and import licences or permits, and measures to regulate the international traffic in arms.

16. Cuba is of the view that a conventional arms trade treaty should establish general standards so that all countries are able to engage in import, export and transfer operations, without their security and national defence interests being affected.

17. Cuba believes that a conventional arms trade treaty will be effective only if it expressly prohibits arms transfers to non-State actors.

18. The treaty's feasibility will ultimately depend on whether all States, particularly the major manufacturers, sellers and buyers of arms, participate in the process and accept the standards that are adopted. In this connection, it should be borne in mind that the bulk of conventional arms manufacturing is concentrated mostly in the developed countries and that five countries alone dominate approximately 85 per cent of the conventional arms market.

19. The treaty should be neither selective nor discriminatory and least of all an instrument for powerful States to inflict reprisals against small or poor States that do not share their policies or positions.

20. The treaty should respect the purposes and principles of the Charter as well as the provisions of its Articles, in particular Article 51 on the inherent right to self-defence.

21. The treaty will have ramifications in such sectors as trade and finance, and it would therefore be very useful to review any decision in that sector in the light of existing international regulations and standards.

22. With regard to the scope of the treaty, Cuba is of the view that it should cover all conventional arms, especially the most modern and sophisticated, whose destructive power is steadily growing. It should also identify the various categories of arms to be covered, as well as the types of transfers to be regulated by the new instrument.

23. The concepts of export, import and transfer should be clearly defined. However, the treaty should not include transfers within a State, only transfers from and to another State.

24. Cuba will follow with great interest the discussions on this item and will add to or update these views as it deems necessary.

Cyprus

[Original: English]
[26 April 2007]

Introduction

1. The Republic of Cyprus, upon the request of the United Nations Secretary-General in resolution 61/89, would like to outline its initial views on an international arms trade treaty.

2. Cyprus supports the adoption of an international treaty to fight the illicit trade of arms and to curb their concentration when there are founded concerns that they will be misused, inter alia for genocide, crimes against humanity, war crimes and violations of human rights or international humanitarian law. Cyprus anticipates that this project will be undertaken within existing norms of international law.

3. At the same time, there must be a clear delimitation between preventing arms from contributing to instability, poverty and crime and safeguarding the sovereign right of each State to self-defence and the maintenance of public order. As such, it must be clear *ab initio* that the arms trade treaty does not include the trade in arms for legitimate use in its *ratione materiae*, nor does it affect the right of all States to import, export and transfer conventional arms according to their legitimate security requirements. The non-interference with the right of States to protect their sovereignty must be clearly enshrined in the treaty and, as such, its scope must exclude national armed forces and security forces of a State as end-users for the exercise of their duties in maintaining national defence and public order. Reference to the rule of law could be introduced as some sort of a safeguard.

4. The adoption, with overwhelming support, of resolution 61/89 by the United Nations General Assembly on 6 December 2006 sets the basis for a process that can lead to the adoption of a comprehensive and legally binding international instrument on conventional arms control. The Republic of Cyprus was among the co-sponsors of the resolution and hopes that it will lead to the establishment of common international standards for conventional arms control in accordance with the Charter of the United Nations and the understanding outlined above, and taking into account the diverse perspectives and experiences of Member States.

Feasibility

5. The Republic of Cyprus considers that an arms trade treaty is feasible. At the same time, such instrument would have to be effective and universally ratifiable as cooperation among States is an integral part of its success. Although common international standards on the control of exports of conventional arms are absent, the existing national, regional and international agreements and norms, which are politically or legally binding, can assist in the creation of an arms trade treaty. The knowledge and experience is already available and they can act as guidelines for the creation of an international treaty. The Republic of Cyprus believes that this future treaty should comprehensively set the standards, processes and rules to be applied in every aspect and stage of its implementation by taking into account, among other things, the political and regional circumstances specific to each Member State.

Scope

6. The items covered by the future treaty should include all conventional arms and related equipment, and take into account the frequent technological developments in the field. Setting international standards on the import, export and transfer of conventional arms must be done in a way that does not interfere with the sovereign right of States to determine which intergovernmental transaction of arms is necessary for their security and defence. Furthermore, in order for the treaty to be effective and avoid ambiguities, it should be complemented by a list that categorizes and provides definitions for the military or military-related equipment. Relevant lists by the United Nations and the European Union can act as helpful guidelines during its preparation.

Draft parameters

7. In order for the future treaty to be comprehensive, there should be a thorough and careful elaboration of the various criteria that would determine if a transaction relating to conventional arms or related equipment should be allowed or not. In the drafting of these criteria there are many factors that should be taken into consideration, including:

- International obligations of Member States of the United Nations;
- United Nations Security Council resolutions and sanctions;
- International humanitarian and human rights law;
- Maintenance of international and regional peace, security and stability;
- Security and stability;
- Potential for diversion of arms from and use by other than the stated/intended parties;
- Potential of use in criminal activities, including terrorism;
- Sustainable development;
- Non-proliferation and disarmament agreements.

8. Beyond the above criteria however, certain cross-cutting principles should be firmly embedded in each guideline elaborated by the convention. These are:

(a) The inherent right of all Member States of the United Nations to individual or collective self-defence;

(b) The right of Member States to manufacture, import, export, transfer and retain conventional arms and related equipment for defence-related purposes and security reasons; and

(c) The specific circumstances of each State party that determine its conventional arms transactions.

9. The final decision regarding the authorization of each transaction should be made on a case-by-case basis and it must continue to lie within the competence of each State party. In order to ensure transparency, confidence and consistency, the convention could establish information-sharing and monitoring mechanisms. This

also applies to international cooperation in the form of exchanging expertise, experiences and other relevant information.

Czech Republic

[Original: English]
[24 April 2007]

Introduction

1. Being aware of a need for a global binding instrument to control the international trade in conventional arms and ammunition and so to combat their illegal proliferation, the Czech Republic was one of the early supporters of the arms trade treaty initiative. Therefore, it warmly welcomed the adoption of resolution 61/89 by the United Nations General Assembly on 6 December 2006 by the vast majority of States. Though we believe that the vast majority of subjects participating in the international trade of military material, especially conventional arms, act responsibly, there are still traders who would sell to any buyer for any use, even in conflict with existing national and international limitations. We hope that the above-mentioned resolution was the first step to the adoption of a comprehensive, global and legally binding treaty that will set the minimum standards for trade in conventional arms.

Feasibility

2. Though the discussion in the General Assembly showed the growing support among the Member States, agreeing on a legally binding instrument will probably not be easy. The final document thus has to be balanced to cover all the different aspects of international trade in arms on the one side and be acceptable and feasible for all Member States on the other. The Czech Republic is convinced that already now a solid fundament for a strong treaty exists. There are many international and regional initiatives having similar aims to the envisaged treaty whose mechanisms and principles can be used to formulate the arms trade treaty.

3. To have a useful tool to combat illicit international trade in conventional weapons (including small arms) and ammunition, the arms trade treaty should include rigorous enforcement and control mechanisms. At the same time the treaty should respect the varying capacities of different Member States and be easy enough to implement, because only such an instrument can ensure that all follow the same standards. This will provide the necessary general confidence for this worldwide control system and enable future improvements.

Scope

4. One of the important elements of the treaty is its scope. Only a precise definition of (a) the material and (b) the transactions covered by the arms trade treaty will enable this initiative to be successful.

(a) From the Czech point of view only a treaty covering all conventional arms (including small arms and light weapons) and ammunition makes it possible to fulfil the main goals as they emerge from resolution 61/89. Related material such as spare parts, manufacturing equipment or relevant technology should also be included in the scope of the arms trade treaty. In order to prevent varying interpretations, a detailed list of the agreed items should be annexed. The initial list might be derived from those of the existing regional agreements and should be the subject of regular update.

(b) The resolution refers to import, export and transfer of arms that should be covered by the treaty. This general definition will have to be clarified and clearly spelled out. From the Czech point of view, import, export and transfer in a narrow sense are not the only types of transactions to be included. The arms trade treaty should also cover activities like re-export, technical assistance, brokering, transit and trans-shipment. To establish an efficient global instrument the treaty should not be restricted to intergovernmental transactions and should cover private end-use as well.

Draft parameters

5. It is extremely important that consensus should exist among the Member States on the criteria. In our view the criteria used for the evaluation of transactions covered by the treaty should include, inter alia:

- Respect for international or regional obligations or commitments — especially the binding arms embargoes by the United Nations Security Council;
- Respect for human rights and international humanitarian law;
- Establishment and maintenance of international and regional peace and stability — prevention of armed conflicts;
- Prevention of acts of terrorism;
- Promotion of sustainable development;
- Prevention of proliferation of small arms.

6. At the same time the right to legitimate self-defence as it emerges from Article 51 of the Charter of the United Nations has to be guaranteed and must not interfere with the criteria. To assure comprehensive application, the arms trade treaty should include detailed guidelines on how to implement the above-mentioned criteria.

7. Agreeing on the common criteria will establish a solid basis for a controlled global trade in arms but, in order to maximize the positive effect of the treaty and the transparency of the information-sharing and reporting system, tools are necessary. The instrument also needs monitoring and enforcement mechanisms to be fully functional.

Conclusion

8. The Czech Republic has hereby offered its views on the future feasibility, scope and draft parameters for the arms trade treaty — a legally binding, comprehensive international instrument that will establish the common standards for the import, export and transfer of conventional arms. We look forward to having a responsible international trade in arms and hope for a strong instrument enabling achievement of this ambitious goal. The Czech Republic is ready to engage with and actively support the group of governmental experts that will commence its work in 2008.

Denmark

[Original: English]
[30 April 2007]

Introduction

1. Referring to resolution 61/89 adopted by the United Nations General Assembly on 6 December 2006 and the letter from the Secretary-General of 16 January 2007, Denmark hereby wishes to express her initial selected views on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms.

2. Denmark was one of the early supporters of the arms trade treaty initiative, and the Danish Minister for Foreign Affairs expressed his support for a legally binding treaty already in his address to the United Nations General Assembly in 2005.

3. Denmark believes that many armed conflicts are aggravated and prolonged due to destabilizing accumulations and illicit transfers of arms, causing insecurity, poverty and human rights violations. A number of international and regional agreements and arrangements have been developed in order to promote responsibility in licit arms transfers and prevent illicit transfers. Yet, there is currently no comprehensive international binding instrument to provide a regulatory framework for the transfers of conventional arms. Denmark therefore strongly supports an international arms trade treaty within the United Nations system, establishing common standards for the import, export and transfer of conventional arms. Such an instrument should be legally binding and include all conventional weapons.

Feasibility

4. The development of an arms trade treaty based upon broad consensus will need thorough preparation and dialogue. Concerns have been raised whether this would be the most suitable approach to promote responsibility in arms transfers or whether such a treaty would have a negative impact on the inherent right of States to acquire the arms necessary for self-defence in accordance with Article 51 of the Charter of the United Nations. Yet, Denmark believes that the strong support for resolution 61/89 adopted by the United Nations General Assembly on 6 December 2006 shows the widespread interest and willingness among Member States to carry out this joint task. Furthermore, there is strong support from civil society, especially from non-governmental organizations, for establishing such an instrument.

Scope

5. Such an instrument should cover all conventional arms including battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, small arms and light weapons (SALW) including man-portable air defence systems (MANPADS), landmines, munitions, including SALW ammunition and explosives, components for such weapons, and technology allowing the manufacture of such weapons.

6. A detailed munitions list should be annexed to the treaty in order to avoid ambiguities. It could build on the categories of the United Nations Register of Conventional Arms but would need to incorporate all conventional arms, for example by drawing on the munitions lists developed within the Wassenaar Arrangement and the European Union, both of which are publicly available.

7. A legally binding instrument should set standards for the import, export and transfer of all conventional arms of which transit, trans-shipment, brokering, transportation, re-export, end-use controls, licensed production, and intangible transfers are important elements.

Draft parameters

8. A legally binding instrument should build upon a set of criteria for the import, export and transfer of conventional arms. These criteria should among other things take into account the following parameters when considering such transfers:

- International and regional peace, security and stability;
- Respect for international law, including international human rights law and international humanitarian law, and the Charter of the United Nations;
- Compliance with arms embargoes decided by the United Nations Security Council as well as obligations and commitments otherwise undertaken by Member States;
- Prevention of illegal transfers of arms and terrorist acquisition of arms;
- Prevention of the diversion of arms or their re-export under undesirable conditions;
- Stability and absence of armed conflict in the recipient country;
- Sustainable development.

9. A legally binding instrument for import, export and transfer should respect the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter and the security needs of all States. A legally binding instrument should be seen as a means to create greater security, peace and stability.

10. The treaty should include a mechanism for increasing transparency and accountability in the international transfer of conventional arms, including timely exchanges of information between States for effective monitoring and enforcement of treaty obligations.

11. In order to promote full implementation of the treaty, the issue of international cooperation and assistance to help States implement the treaty should be addressed.

Conclusion

12. On the basis of these initial views on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, Denmark will continue to engage actively in the promotion of an arms trade treaty, and looks forward to the work of the group of governmental experts, which will commence its work in 2008.

Ecuador

[Original: Spanish]
[10 July 2007]

Background

1. The Government of Ecuador was one of the sponsors of General Assembly resolution 61/89, in which the Secretary-General is requested to take a number of actions to facilitate the consideration of the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms.

2. In Ecuador's view, the fact that countries throughout the world supported this proposal is significant, as it attests to their awareness that this is a serious security problem.

3. Ecuador is fully committed to this process, as it firmly believes that the adoption of an arms trade treaty will provide countries with international norms aimed at reducing the security risks they face.

4. Ecuador fully endorses the basic principles cited by the General Assembly as the grounds for adopting this resolution, which can be summed up as follows: the need to ensure the maintenance of international peace and security through effective arms control, disarmament and non-proliferation; the need to strike a balance between this principle and the right of States to self-defence; and the obligation to safeguard public safety and development.

5. The current diversity of standards, at the national and international levels, for controlling the production, trade and transfer of arms demonstrates the need for universal, binding international standards that require States to observe a unified regulatory framework and to prevent illegal arms transfers.

6. Ecuador, in the framework of the United Nations, has supported and implemented all the resolutions adopted on the need for an international mechanism to regulate the arms trade. Of particular note is Ecuador's unconditional support for the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

7. Ecuador has been an active participant in the process of adopting arms control provisions in the framework of the Organization of American States (OAS). The following instruments contain important principles and standards that could help to advance the process of adopting an arms trade treaty.

8. The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials. Substantial strides have been made in combating illicit trafficking in small arms and light weapons through measures to ensure the proper management and security of arsenals.

9. The Inter-American Convention on Transparency in Conventional Weapons Acquisitions. This is an important instrument for furthering the development of clear standards on the arms trade and preventing the diversion of arms, through illicit trafficking channels, to non-State actors that use them for illicit purposes. It is also useful for developing registration and control measures with respect to trade in conventional arms.

10. Efforts to combat the illicit trade in conventional arms, ammunition and explosives are also on the agenda of the Inter-American Committee against Terrorism, given the phenomenon's close relationship to the problem of terrorism.

11. The arms trade treaty will also facilitate the necessary process of curbing military expenditure and promoting greater transparency in weapons acquisitions.

12. The reduction of military budgets by a suitable percentage, within the reasonable limits imposed by the need to ensure peace and security at the national level, should also be taken into account in this process. Such reductions should also be seen as a means of freeing up more economic and financial resources for human development and well-being.

13. The adoption of an arms trade treaty that incorporates clear standards and mechanisms for implementing them will make a direct and effective contribution to efforts to combat transnational organized crime.

14. In the framework of the Southern Common Market (MERCOSUR), of which Ecuador is an associate member, significant headway has been made in the Working Group on Firearms. The countries developed a common position in this regard, which enabled them to act in unison at the United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, held in New York in 2006.

15. Work has also been done on how to approach the problems posed by important considerations related to the arms trade and, in particular, illicit arms trafficking: non-State actors, human rights, humanitarian issues and armed conflict.

16. The Andean Community has adopted decisions 515 and 552, whereby the Andean countries pledged to develop national and Andean agendas on the arms trade.

17. The Union of South American Nations (UNASUR), of which Ecuador is also a member, is working to harmonize approaches with a view to taking a common position in international forums and developing a proposed South American agenda on this subject.

18. Ecuador considers that this process cannot move forward unless States understand the need for clear domestic and international standards that will enable them to act responsibly with respect to the conventional arms trade and will ensure that the rules of the game are the same for all countries and that arms trade practices are consistent with States' obligations under international law.

19. States need to adopt and enforce standards that will prevent arms transfers in breach of obligations arising under the Charter of the United Nations and the universally accepted principles of international humanitarian law. They also need to prevent the diversion of arms, which can lead to violations of the standards which States are bound to observe.

20. States also need to recognize that the globalization of crime and its organizational structures represents not only a security problem for each nation individually, but also a threat to regional and global peace and stability. In this connection, it is important to adopt international standards to serve as a basis for effective disarmament programmes and the coordination of actions with the various

national and international stakeholders to reduce armed violence and the availability of weapons, ammunition and explosives.

21. Ecuador also believes that States should bear in mind that the adoption of an arms trade treaty would represent a significant global security- and confidence-building measure. This is essential for the development of relations of friendship and cooperation between peoples, within a system for exchanging and disseminating information on the disarmament and arms control mechanisms used by each country.

22. Ecuador considers, moreover, that these international standards and their enforcement will support efforts to address other serious worldwide security problems such as violence, terrorism and social disintegration, which are undeniably linked to trafficking in conventional arms.

23. States should also, in Ecuador's view, be aware that illicit arms trafficking is linked to poverty and underdevelopment.

24. Ecuador believes that it is vitally important to have an appropriate regional and global register of small arms and light weapons, in view of the danger posed by the unrestricted production, distribution and possession of such arms. The arms trade treaty will provide clear standards and control mechanisms such as the establishment of international registers of conventional arms and the regular exchange of information on the export, import, manufacture and possession of conventional arms, to enhance transparency with respect to trade in such arms.

25. States should bear in mind that the arms trade treaty will establish comprehensive controls in the form of common standards for all arms exports and imports, arms brokering activities, licensed transfers of arms production capacity and the transit and trans-shipment of arms.

26. In sum, States should be aware that only concerted efforts can succeed in controlling this scourge. Accordingly, the arms trade treaty should also provide for better targeting of international cooperation through the exchange of information and cooperation between customs authorities and with importers and manufacturers, to build a more complete register of legally traded arms.

Feasibility of an arms trade treaty

27. The fact that a large number of States Members of the United Nations supported General Assembly resolution 61/89 demonstrates the international community's desire to undertake negotiations on an instrument which, bearing in mind States' particular circumstances and individual defence needs, can harmonize the interests of the various actors involved in this process: States, governmental and non-governmental organizations, etc.

28. The interest thus expressed by the countries is not new. Work has been ongoing in various forums with a view to the adoption of standards for the effective regularization and control of the arms trade and for the prevention of illicit arms trafficking. The various conventions, resolutions and agreements adopted in different organizations and subregional, regional and global forums attest to this fact.

29. The treaty should include suitable mechanisms for enabling States to enforce the standards adopted, as well as appropriate control mechanisms.

30. Existing provisions that are binding and that can be applied in this area include the Charter of the United Nations, certain Security Council resolutions, the principles and standards of humanitarian law, the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction and the 2001 Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, among others.

31. As noted earlier, there are other standards adopted within the United Nations and regional organizations which, while not currently binding on all or some States, may be used as a frame of reference in the negotiations. Specifically, these standards are the ones included in the above-mentioned conventions adopted at the inter-American and Andean levels.

32. There are also bilateral agreements that could offer important elements for this negotiation process.

Scope

33. Ecuador believes that the treaty should regulate trade in conventional small arms and light weapons, ammunition, explosives and other related materials, as provided for in international instruments on the illicit manufacturing of and trafficking in arms of this type. Mines should be covered as well. Of course, Ecuador is willing to consider other types of arms included in the list submitted by the Secretary-General of the United Nations by way of example, should a consensus emerge, in the negotiations, on the inclusion of other arms that appear on the list.

34. Ecuador also believes that there should be controls on the transfer of technology for the production of arms of the type referred to in the preceding paragraph.

35. The treaty should include a generic list of the arms subject to control under its provisions.

36. Ecuador considers that the treaty should cover not only the import, export and transfer of such arms, but also areas such as transit, transport and brokering.

Parameters

37. The arms trade treaty should be legally binding and should reflect the binding provisions already adopted in the United Nations context. It should also include provisions and mechanisms for enforcing the treaty.

38. All the other instruments adopted in the various international and regional organizations and forums should be analysed, including:

- Relevant provisions of the Charter of the United Nations;
- Convention on the Prevention and Punishment of the Crime of Genocide;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;

- Geneva Conventions and Protocols additional thereto.

39. While these are the most important and universal frameworks, other provisions should also be analysed, such as:

- The 1997 Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials; and

- The Inter-American Convention on Transparency in Conventional Weapons Acquisitions.

40. Instruments involving only a political commitment should not be excluded from the analysis, since they contain fundamental principles and provisions that should be discussed in relation to the proposed arms trade treaty.

41. Decisions on whether to authorize transactions must necessarily be taken under the individual responsibility of States.

42. Ecuador does not object to the inclusion in the treaty of provisions concerning the legitimate right of States to produce and sell arms, but such provisions should set out strict standards that must be met in order to carry out such production and authorize such transactions.

43. Ecuador considers that all the areas referred to in the resolution are applicable. As noted earlier, it considers that the control of conventional arms should contribute to the ultimate objective of disarmament and non-proliferation, which is the only means of safeguarding international peace and security.

44. The acknowledged right of States to self-defence should not be used as a pretext for indiscriminate arms production that is inconsistent with the principle it is meant to uphold and that ultimately aims merely to generate profits.

45. The treaty should contain a chapter on the cooperation to be provided to States that request it for the purpose of implementing the treaty. Such cooperation should also be directed towards helping States to establish a mechanism to facilitate the exchange of information and experiences with a view to ensuring effective oversight of the manufacture of firearms and other activities, such as monitoring and neutralizing illegal trafficking activities; not renewing licences to bear arms; detecting illegal sales on the part of arms traders; preventing the intentional diversion of arms to other buyers; preventing and punishing the offence of falsifying documents in order to buy and register firearms; keeping appropriate records of seized or confiscated arms; verifying import and export operations; obtaining basic information on the routes and networks used by criminal organizations involved in arms trafficking; and promoting and facilitating international cooperation and assistance in tracking arms.

46. There should also be a marking system and a database containing information for use in identifying arms by means of a complete record encompassing both the manufacturing process and export and import operations. Identifying arms in this way will optimize the capacity to trace the origin of illicit firearms and, ultimately, will facilitate oversight and the punishment of offenders, be they States or individuals.

47. Lastly, the arms trade treaty should address the need to define as offences the illicit manufacture, production and sale of arms, ammunition, explosives and related materials, as well as the illegal transfer of technology for producing such arms.

El Salvador

[Original: Spanish]
[30 April 2007]

Feasibility

1. The fundamental principle of respect for the basic norms of international law and the principles enshrined in the Charter of the United Nations, including the sovereign equality of States, territorial integrity, the peaceful resolution of international disputes, non-intervention, and non-interference in the internal affairs of States, are important in order to strengthen international peace and security.

2. It is important for States to undertake to adopt legislation in order to criminalize the manufacture, possession and stockpiling of and illicit trade in arms in order to ensure that anyone involved in these activities can be prosecuted under their respective penal codes. It is necessary to put in place and implement adequate laws, regulations and administrative procedures to ensure effective control over the export and transit of small arms and light weapons, including the use of authenticated end-user certificates.

3. It is important to encourage the adoption of adequate national legislation and administrative procedures regulating the activities of those who engage in small arms and light weapons brokering, including measures such as registration of brokers' transactions, licensing or authorization of brokering and the establishment of appropriate penalties for illicit brokering activities.

4. Within this normative framework of laws and principles for the legal arms trade, it is important for Governments to assume the obligation to prevent, combat and eradicate the illicit arms trade by intensifying their efforts to define the problems associated with this illicit trade in order to resolve them.

5. Exporting States as well as importing States should assume the obligation, and should undertake, to prevent the illegal re-export and illicit transit and retransfer of arms not covered by mechanisms and procedures for importing arms.

6. Authorized manufacturers should mark weapons more appropriately as an integral part of the production process. They should also provide technical information so that arms that may be related to cases of illicit transfer can be identified and traced.

7. Agreed cooperation between States within the framework of legal export and transfer (trade) should be harmonized at the bilateral, regional and international levels in order to prevent and combat systematically the illicit traffic in firearms.

8. Cooperation with the United Nations should be strengthened in order to ensure the effectiveness of the arms embargoes decided by the United Nations Security Council in accordance with the Charter of the United Nations and to ensure that the legitimate activities of exporting States are not excessively restricted.

9. Measures should be taken to complement the existing instruments concerning the illicit trade in or transfer of conventional weapons, such as the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, the Code of Conduct of the Central American States on the Transfer of Arms, Ammunition, Explosives and Other Related Materials, adopted within the framework of the Central American Integration System (SICA) and other relevant international instruments and United Nations and Organization of American States (OAS) resolutions.

10. The instrument should be comprehensive and legally binding and should ensure that all transactions are subject to a prior risk assessment and that if they are found to be illegal or to have a negative impact, they are not allowed to continue.

11. Common standards should be established and transactions that violate the treaty should not be permitted.

12. The principles and provisions of the Charter of the United Nations, international and regional agreements and relevant national practices should be clearly mentioned and should be considered in drafting a universal treaty and compatibility between existing instruments and the new treaty should be ensured.

13. Consideration should be given to examining existing mechanisms and international cooperation aimed at ensuring that States have the capacity to implement the treaty effectively. It is also important to note that additional agreed universal standards for the arms trade could reduce the workload of officials and businesses.

14. Reference should be made to States' responsibility to regulate international arms transfers and to amend their domestic law with a view to the implementation of United Nations Security Council decisions.

15. The challenges raised by the arms trade should be faced with all States' capacities and abilities since when it results in illicit transfers and related activities, it threatens the very security and democratic stability of States.

Scope

16. It is important to define the concept and categories of conventional weapons to be covered by the treaty since the categories of arms vary according to the capacities and needs of countries with varying degrees of development.

17. The United Nations Register of Conventional Weapons could be used as a basis for defining the categories of arms, ammunition, explosives and other related materials. On the basis of this definition, it should be decided whether to provide a detailed list of the items covered or to describe them in general terms.

18. The importance of the International Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, should be reaffirmed.

19. It is important for States to commit themselves to harmonizing their procedures for imports, exports, transfer documents and controls on the recipients of arms, ammunition and other related materials. The management and regulation

capacities of businesses and storage facilities that deal in arms, ammunition, explosives and other related materials should be strengthened.

20. States should endeavour to put in place adequate laws, regulations and administrative procedures to exercise effective control over the legal arms trade within their areas of jurisdiction and over the export, import, transit or retransfer of such weapons, in order to prevent unauthorized manufacture of and illicit trafficking in small arms and light weapons, or their diversion to unauthorized recipients.

21. States should be encouraged to commit themselves to developing adequate controls, regulations and administrative procedures to regulate and monitor the possession and use of small arms and light weapons by civilians.

22. States should be encouraged to exchange among themselves, in accordance with their domestic law and with international instruments, information on authorized arms producers, dealers, importers, exporters and, whenever possible, carriers.

23. Measures aimed at controlling the brokering, transfer and management of the inventories of institutions and of businesses that trade in firearms should be encouraged.

24. Measures to ensure that producing countries strengthen their security measures, controls and trade procedures in order to prevent the legal arms trade from being used in any way by international organized crime as a means to the illegal arms trade should be encouraged.

25. States should provide to and share with each other scientific and technological information in order to prevent, detect, and investigate illicit arms manufacturing and trafficking that may arise from the legal arms trade.

26. It is important for States to cooperate with each other and with international organizations in order to strengthen institutional controls on the legal trade. It is important to establish a monitoring committee to promote adoption of the measures envisaged in the treaty. This committee should consist of a representative of each State party and should hold at least one regular meeting each year and special meetings as necessary. These meetings should be held at United Nations Headquarters and the Organization's procedures for holding the proposed meetings should be followed.

27. In addition to imports, exports and transfers, and in light of domestic laws and international agreements, transit, trans-shipment and brokering might be included.

Parameters

28. The treaty should contain common standards so that the States that sign it will be legally bound to implement them, but the decision to authorize arms transactions should remain a power of individual States. The right of States to produce conventional weapons in a legal manner and to trade in them responsibly should be mentioned.

29. The factors that States should take into account in deciding whether to approve an import, export or transfer, and the cases in which States have already committed themselves not to approve transactions on the grounds of existing prohibitions or

restrictions established in their laws or in international agreements should be set forth.

Estonia

[Original: English]
[25 April 2007]

1. Estonia was among the co-sponsors and countries that supported the adoption of resolution 61/89 on 6 December 2006. We strongly support the objective of establishing effective common international standards for the import, export and transfer of arms and a comprehensive and legally binding international instrument regulating the arms trade.

2. Adoption of the resolution was a crucial step towards assuring a more responsible and transparent arms trade. Admitting that today there exists no universal convention on the trade in conventional arms, we believe that the arms trade treaty will eliminate that lacuna. At the same time, we acknowledge that every country has an inalienable right to self-defence, and thus also to purchase arms.

3. We also believe that the arms trade treaty would contribute to sustainable development, peace and security and respect of human rights at a global level. Accordingly, Estonia is willing to actively work together with all Member States of the United Nations and the Office for Disarmament Affairs of the Secretariat towards a comprehensive legally binding convention covering export, import and transfers of all conventional arms.

Feasibility

4. Estonia fully recognizes that although it will not be a simple task, the aim of the negotiations should be to agree on a universal treaty that will ensure that all transactions are subject to a prior assessment of the risk that they would be unlawful and/or have a serious negative impact on peace, security or human rights. It should be made sure that in such circumstances the transactions should not be allowed to be executed. The future treaty should set out the standards to be applied and also guarantee the necessary transparency and monitoring of implementation. Taking into account the relatively small size of the Estonian public administration and military and dual-use industry organizations, it is worthwhile to mention that more universal standards for the arms trade would in fact reduce workloads for licensing officials and business entities.

5. Negotiations on an arms trade treaty do not start from empty ground. We believe that, first of all, the arms trade treaty should be based on global obligations stemming from such legally binding documents as the Charter of the United Nations and United Nations Security Council resolutions. Also, there exist a number of international and regional treaties, conventions, agreements and other instruments which could be used as a basis in the forthcoming debate on an arms trade treaty. We would like to mention, in particular, the following binding international or regional instruments that are relevant to deliberations on an arms trade treaty:

- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its annexed Protocols;

- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 1997;
- Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Protocol to Convention against Transnational Organized Crime, 2001;
- Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, 1997;
- Inter-American Convention on Transparency in Conventional Weapons Acquisitions, 1999;
- The 2001 Protocol on the control of firearms, ammunition and other related materials in the Southern African Development Community (SADC) region;
- 2004 Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa;
- 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons.

6. In the future debate on the arms trade treaty, it might also be useful to draw upon the experience and look at the formulations of politically binding international and regional agreements, such as:

- The United Nations Register of Conventional Arms;
- United Nations Guidelines for International Arms Transfers, 1996;
- The United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons, in All Its Aspects, 2001;
- OSCE Criteria for Conventional Arms Transfers, 1993;
- Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 1995;
- 1998 European Union Code of Conduct on Arms Exports (EU Code of Conduct);
- 1998 OAS Model Regulations for the Control of Firearms;
- 2000 OSCE Document on Small Arms and Light Weapons;
- 2002 Wassenaar Arrangement Best Practice Guidelines for Exports of Small Arms and Light Weapons;
- Antigua Declaration on the Proliferation of Light Weapons in the Central American Region, 2002;
- The 2003 OAS Model Regulations for the Control of Brokers of Firearms, their Parts and Components and Ammunition;
- Inter-American Convention on Transparency in Conventional Weapons Acquisitions.

7. It is important to emphasize that the arms trade treaty process is aimed at creating a new, independent and legally binding instrument, not solely to refer to already existing norms.

Scope

8. Estonia believes that the scope of the treaty plays a crucial role in ensuring the effectiveness of the treaty. We are of the opinion, that the arms trade treaty should cover all conventional arms such as, but not limited to, battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, man portable air defence systems (MANPADS), munitions, explosives and, most importantly, small arms and light weapons (SALW) and their ammunition. The list should also cover technology allowing the manufacture of such weapons. The United Nations Register of Conventional Arms might be used as a basis for establishing the list of categories to be included in the arms trade treaty. However, other lists, such as the European Union Munitions List or the Wassenaar Munitions List, which classifies conventional arms into 22 categories and subcategories, might be considered. In order to avoid differing interpretations of the treaty by the participating States, it is very important to pay attention to the definitions and terminology section of the treaty. A viable option would be to include terminology used in arms embargoes imposed by the United Nations Security Council.

9. Estonia believes that the treaty should cover a comprehensive list of transactions involving trade in armaments, such as import, export, re-export, transfer, transit, trans-shipment, technical assistance, transfer of technology and brokering activities. Inclusion of all sorts of transactions would avoid creating loopholes that might be used to get around the reach of the arms trade treaty. Similarly, the treaty should cover the transactions between all sorts of trading parties that result in the movement of military equipment from the territory of one State to that of another State. That includes Government to Government or State to State transfers. However, the arms trade treaty should not cover transfers within a State or impose restrictions on how arms may be acquired, held or used within a State's territory.

Draft parameters

10. Estonia is convinced that the treaty should set out clear standards that States are bound to abide by. The treaty might set out the factors the States are obliged to consider when deciding whether or not to approve the import, export or transfer of arms. The list of factors might include, but should not be limited to, the following:

- Maintenance of international peace and security;
- Human rights situation;
- Compliance with international law, including international humanitarian law;
- Non-proliferation and disarmament agreements;
- Safety and effectiveness of peacekeeping operations;
- Fight against international crime and terrorism;
- Effect on sustainable development;

- Conformity with international and regional arms embargoes;
- Validity of end-use and end-users.

11. Despite the comprehensive list of the factors to be taken into account, the actual decisions on authorizing transactions should remain within the remit of individual States. It is also important that the treaty acknowledge the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter, and the security requirements of all States.

12. In order to improve the transparency and guarantee the effectiveness of the future instrument, the arms trade treaty should contain a reporting obligation. State parties should have an obligation to report regularly to a competent United Nations body about the destinations, actual nature and value of their arms exports. Estonia also sees merit in the compliance mechanism for the treaty.

Conclusion

13. Estonia hopes that these initial views on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms will contribute to moving on with the discussions on the arms trade treaty. We look forward to the deliberations of the group of governmental experts as a further step in the process. Estonia is willing to participate in this process as actively and constructively as possible.

Fiji

[Original: English]
[16 May 2007]

Introduction

1. The Republic of the Fiji Islands shares the sentiment that only a global treaty, negotiated in a non-discriminatory, transparent and multilateral manner will put an end to the current piecemeal approach of national and regional arms control and provide all States with the common international standards that ensure responsible arms trade. This assessment is submitted pursuant to United Nations General Assembly resolution 61/89 and in response to the communication from the Department for Disarmament Affairs of 16 January 2007 soliciting the views of Member States of the United Nations on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms.

2. Fiji supports the call for a comprehensive global arms trade treaty and agrees that irresponsible and poorly regulated trade in arms destabilizes countries and regions, fuels conflict, causes gross human rights abuses, leads to serious violation of international humanitarian laws and in developing economies like ours, undermines all genuine efforts towards sustainable development.

General Assembly resolution 61/89

3. Fiji is proud to have been among the 153 States Members of the United Nations that on 6 December 2006 voted in favour of the General Assembly

resolution 61/89, "Towards an arms trade treaty". The adoption of this resolution marked the formal commencement of a process towards an arms trade treaty, an initiative Fiji considers fundamental for improving international security, peace and development.

4. In supporting the adoption of resolution 61/89, Fiji was guided by the purposes and principles enshrined in the Charter of the United Nations; reaffirmed its respect for and commitment to international law, including the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter; and acknowledged the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs, and to participate in peace support operations.

5. Also by so voting, Fiji recognized that the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development.

6. Fiji's vote was also influenced by the increased level of encouraging relevant initiatives, undertaken at the international, regional and subregional levels between States, including those of the United Nations, and of the role played by non-governmental organizations and civil society, to enhance cooperation, improve information exchange and transparency and implement confidence-building measures in the field of responsible arms trade.

Feasibility

7. Fiji is of the view that a comprehensive arms trade treaty based on a set of parameters rooted in States' existing responsibilities under international law, including human rights and international humanitarian law, is entirely feasible.

8. A comprehensive arms trade treaty could be advanced based on the various principles of arms transfer that are already in existence, including, for example, the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunitions, Explosives and Other Related Materials (CIFTA) 1997; the Organization for Security and Cooperation in Europe (OSCE) Document on Small Arms and Light Weapons 2000; and the Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons their Ammunition and Other Related Materials 2006, to name but a few.

9. Fiji also notes the existence and usefulness of referring and borrowing from the now existing Codes of Conducts,[3] Model Regulations[4] and Best Practice Guidelines on the transfer, export and brokering of small arms, their parts and components and ammunition. Employing the principles set out in these documents and those in existing subregional and multilateral instruments will assist in the establishment of a clear universal procedure for regulating international transfer of arms; prevent and combat illicit arms transfer; respect United Nations sanctioned arms embargoes; prevent diversion to proscribed groups, such as those who commit

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[3] E.g. The Code of Conduct of the States of Central America (SICA) on the Transfer of Arms, Munitions, Explosives and Related Materials, 2005.

[4] E.g. The OAS Model Regulations for the Control of Brokers of Firearms, their Parts and Components and Ammunition, 2003.

terrorist or criminal acts; prohibit transfers that violate obligations under international law; prohibit transfers that are likely to be used for serious violations of human rights or international humanitarian law; prohibit transfers that are likely to be used to commit crimes against humanity or acts of genocide; prohibit transfers that adversely affect sustainable development; and prohibit transfers that are likely to adversely affect internal or regional security.

10. Fiji admits that it is neither a member nor a signatory to any of the regional instruments or bound by any of the documents mentioned above. There are a significant number of States that are not party to any regional or multilateral arms transfer control agreement. A uniform global framework for such control is therefore a pressing priority.

11. Judging by the level of support demonstrated by Member States in the adoption of United Nations General Assembly resolution 61/89, their collective work in addressing weapons of mass destruction and the growing level of cooperation in the field of conventional arms control subregionally, regionally and multilaterally, Fiji believes that an arms trade treaty is not only a pressing priority but it is also feasible.

Scope

12. Fiji is of the view that an arms trade treaty ought not to minimize or detract from the fundamental rights of States to acquire conventional arms for legitimate self-defence and law enforcement needs in accordance with international law and standards. However, it should identify core substantive obligations that reflect existing international legal commitment on the part of States to prevent threats to the peace of the international community; ensure respect for the law of war; and cooperate in the protection and fulfilment of human rights.

13. Fiji supports and agrees with the suggestion that an arms trade treaty should comprise a comprehensive system to control the cross-border movement of all conventional arms and associated equipment. This should cover the import, export, transit and trans-shipment and brokerage of all conventional arms, including: heavy weapons; small arms and light weapons; parts and components for the aforementioned; munitions, including ammunition and explosives; technology used for manufacturing conventional arms; weapons used for internal security; and dual-use goods intended for military, security or policing purposes.

14. Fiji also agrees with the suggestions that an arms trade treaty ought to apply to all aspects of the Government-sanctioned trade in conventional arms. This includes: State-to-State; State-to-private end-user; commercial sales; leases; and loans or gifts or any other form of transfer of material goods or credit or expertise.

Parameters

15. In paragraph 3 of the Department of Disarmament Affairs note of 16 January 2007 Member States were invited to provide information on the principles, guidelines and parameters that should govern the international transfer of conventional arms and any other features that might contribute to the development and adoption of an effective arms trade treaty.

16. In relation to this request, Fiji confirms that it has had the good fortune of being at the receiving end of assistance and advice from non-governmental

organizations both at the local/national[5] level and in particular from those who are members of the International Action Network on Small Arms (IANSA). In as far as the principles of an arms trade treaty are concerned, Fiji concurs with the principles compiled as a guide by the Group of Non-Governmental Organizations[6] covering the six broad areas, namely: responsibilities of States; express limitations; limitations based on use or likely use; factors to be taken into account; transparency; and comprehensive control.[7] These principles reflect the content of a variety of international instruments including: international and regional treaties, declarations and resolutions of the United Nations and other multilateral and regional organizations, and model regulations intended for national legislation. Some of the principles reflect customary and treaty law, while others reflect widely accepted emerging norms. The compilation indicates the best general rules for effective control of international transfers of all conventional arms and ammunition.

17. As for the guideline and parameter, Fiji submits that decisions on transfers should remain under national control, but a central tenant of the arms trade treaty must be that States ensure that all international transfers of conventional arms relevant to their jurisdiction are subjected to strict control and licensed according to internationally agreed standards of international law.

18. An arms trade treaty should set out those circumstances under which a State is obligated not to transfer conventional arms internationally, as set out in existing international law including: obligations under the Charter of the United Nations; any other treaty or decision by which a State is bound; legal instruments which prohibit transfers of particular weapons or provide for the outright prohibition of a particular weapon; and obligations under international humanitarian law.

19. Further, an arms trade treaty should also include the provision that States shall not authorize international transfers of conventional arms where they will be used or are likely to be used for violations of international law, including: breaches of the Charter and of rules of customary law relating to the threat or use of force; gross violations of international human rights law; serious violations of international humanitarian law, including the Geneva Conventions and Protocols; and crimes against humanity and genocide.

Conclusion

20. Fiji is happy to make this submission; admittedly, most if not all of the views expressed herein are identical to those advanced by other Member States, non-governmental organizations and civil societies. Similarities in views confirm the growing level and momentum of support and interest the proposal for

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[5] Fiji NGOs and civil society organization networks — Catholic Women's League, CCF, FASW, FCOSS, FCC, FMWL, FTA, NCWF, PCDF/PW, PCRC, PACFAW, PPSEAWA, PRS and the YPCN.

[6] This group of non-governmental organizations includes: Africa Peace Forum, Amnesty International, Arias Foundation, Caritas International, Friends Committee on National Legislation, Non-Violence International, IANSA, Oxfam International, Project Ploughshares, Saferworld, Schweitzer Institute, Sou da Paz, Viva Rio, and Women's Institute for Alternative Development (WINAD). Additional legal advice to the group has been provided by the Lauterpacht Centre for International Law, University of Cambridge.

[7] See *Compilation of Global Principles for Arms Transfers*, Text and principles revised and updated 2007. Arms Trade Treaty Steering Committee 2006, Amnesty International, Chalgrove, United Kingdom.

establishing common international standards for the import and transfer of conventional arms is attracting. Fiji stands willing to contribute positively within the ambits of its ability in any negotiations that may lead to the formulation of a comprehensive arms trade treaty. Such a global instrument will not only overcome the current piecemeal approach of States attempting to use variable national and regional instruments to control the transfer of arms, but it would also improve respect for human rights and the prospects for development and increased security worldwide.

Finland

[Original: English]
[16 April 2007]

Introduction

1. In response to the United Nations Secretary-General's request for views on an arms trade treaty, submitted in accordance with resolution 61/89, Finland has the honour to present the following views and observations.

2. Finland was among the first countries to support formally the idea of an arms trade treaty. This support was based on our conviction that there is a humanitarian urgency for better regulation of the legal arms trade at the global level. An arms trade treaty would fill a loophole, since today there exists no universal convention on the trade in conventional arms. We also believe that an arms trade treaty would help to improve sustainable development, peace and security and the full enjoyment of human rights at a global level.

3. Finland, together with Argentina, Australia, Costa Rica, Japan, Kenya and the United Kingdom, was one of the co-authors of resolution 61/89, which was adopted by the United Nations General Assembly and supported by more than 150 Member States.

4. Finland is willing to continue to work together actively with all States Members of the United Nations and the Office of Disarmament Affairs of the Secretariat towards a comprehensive legally binding convention covering export, import and transfers of all conventional weapons, and to participate in the work of the governmental group of experts. Finland also sees merit in the active participation of non-governmental organizations and representatives of the arms industry in the arms trade treaty process.

5. In order to be truly effective, this instrument has to be of a legally binding character.

6. Finland believes that the core content of a future arms trade treaty should be to provide a common agreed, universal standard for national arms licensing authorities. The decision-making capacity should remain at the national level.

Feasibility

7. Finland is convinced of the feasibility of an arms trade treaty, first of all because of the will expressed by a wide range of States to enter genuinely into and to conclude negotiations on an instrument which meets their needs and the needs of

States approaching the issue from different perspectives. States must also have the commitment and the capacity to implement effectively the provisions of a treaty.

8. Many of the fundamental principles of an arms trade treaty already exist, as legally or politically binding international, regional or national norms. Despite the fact that the process for an arms trade treaty is intended to create a new legally binding convention, there are already principles set out in customary international law, as well as international agreements and conventions, which can be used when entering into negotiations on an arms trade treaty.

Existing international commitments

9. There already exist various international and regional conventions and agreements which could well be used in the forthcoming arms trade treaty debate. The Charter of the United Nations and arms embargoes decided on by the United Nations Security Council would be the cornerstones of an arms trade treaty.

10. There are, however, other relevant treaties and instruments. Some of these instruments are directly related to arms and the arms trade, others are more related to the consequences of irresponsible arms trade. Finland would in particular like to mention the following binding international or regional instruments that are of relevance for deliberations on an arms trade treaty:

- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects;
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 1997;
- Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the United Nations Convention against Transnational Organized Crime, 2001;
- Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, 1997;
- Inter-American Convention on Transparency in Conventional Weapons Acquisitions, 1999;
- The 2001 Protocol on the control of firearms, ammunition and other related materials in the Southern African Development Community (SADC) region;
- 2004 Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa;
- 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons.

11. In the debate on an arms trade treaty it might also be useful to draw upon the experience and look at formulations of politically binding international and regional agreements, such as:

- The United Nations Register of Conventional Arms;
- United Nations Guidelines for International Arms Transfers, 1996;

- OSCE Criteria for Conventional Arms Transfers, 1993;
- Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 1995;
- 1998 European Union Code of Conduct on Arms Exports (EU Code of Conduct);
- 1998 OAS Model Regulations for the Control of Firearms;
- 2000 OSCE Document on Small Arms and Light Weapons;
- 2002 Wassenaar Arrangement Best Practice Guidelines for Exports of Small Arms and Light Weapons;
- Antigua Declaration on the Proliferation of Light Weapons in the Central American Region, June 2002;
- The 2003 OAS Model Regulations for the Control of Brokers of Firearms, their Parts and Components and Ammunition;
- Inter-American Convention on Transparency in Conventional Weapons Acquisitions.

12. Finland expresses its willingness to work on the basis of these instruments and to discuss whether elements of these instruments could be included in the arms trade treaty. Finland, however, wishes to emphasize that the arms trade treaty process is aimed at creating a new independent, legally binding instrument, not one that solely refers to already existing norms.

Scope

13. With regard to the scope of the new instrument, Finland's starting point is that it should cover transactions of all conventional arms. In the forthcoming discussions, existing classifications and munitions lists and categories could prove useful. One such list is the Wassenaar Munitions List, which classifies conventional arms into 22 categories and sub-categories. Another possible reference point could be the classification of arms stemming from the categories of the United Nations Register of Conventional Arms.

14. Finland believes that the expression "import, export and transfers" as used in the resolution should be given a broad interpretation. An arms trade treaty, in order to be as effective as possible, should also include transit, trans-shipment and brokering. The discussion on the concept of brokering to be included in the arms trade treaty should not preclude possible results on the issue in other relevant United Nations contexts. The inclusion of licensed production, export of services and maintenance as well as intangible transfers of technology should be discussed.

15. Finland is of the opinion that an instrument should be limited to transfers which involve military equipment moving from the territory of one State to that of another State, including Government to Government or State to State transfers. An instrument should not cover transfers within a State. The instrument should not impose restrictions on how arms may be acquired, held or used within a State's territory.

Draft parameters

16. The draft parameters of an arms trade treaty would be to establish universally agreed legally binding norms and standards to be followed by national licensing authorities. These standards could contain both absolute criteria, when an application should be refused, and factors which would have to be taken into account when forming a judgment.

Core criteria for arms transfers

17. In this connection, Finland would like to refer to the International Conference on Arms Transfers, held in Dar-es-Salaam in February 2005, where representatives of 31 States agreed on the following core criteria for international arms transfers to be applied by national authorities:

(a) All transfers be authorized through a physical permit or licence;

(b) Existing obligations under relevant international law should be respected;

(c) Arms embargoes imposed by the United Nations Security Council should be respected and enforced.

18. Finland would like to continue to work on the basis of these criteria as core obligations to be included in an arms trade treaty.

Respect for human rights in the country of destination

19. Respect for human rights in the country of destination should be a fundamental criterion in an arms trade treaty. States parties should not issue a license if there is a clear risk that the proposed export might be used for internal repression. In addition, States parties should exercise special caution and vigilance in issuing licenses, on a case-by-case basis and taking account of the nature of the equipment, to countries where serious violations of human rights have been established by competent bodies.

20. The authoritative bodies to guide States on when serious human rights violations have been established would be the human rights bodies of the United Nations, in particular the Human Rights Council, the special procedures and the treaty bodies.

21. Existing international obligations under the Universal Declaration on Human Rights as well as the six universal human rights conventions (the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of Discrimination against Women and the Convention on the Rights of the Child) and their optional protocols should be discussed in connection with the inclusion of the human rights criterion in an arms trade treaty.

Humanitarian impact and respect for humanitarian law as arms trade treaty criterion

22. Another equally important criterion and factor to be discussed is respect for humanitarian law (as codified in the Geneva Conventions and protocols, as well as in customary law) in the country of destination. An arms trade treaty might include provisions stating that States parties should not issue an export licence if there is a clear risk that the military equipment to be exported might be used in the commission of serious violations of international humanitarian law.

23. Questions to be asked could include whether the recipient has ratified international humanitarian law instruments or made other formal commitments to apply the rules of international law; whether the recipient has trained its armed forces in the application of international humanitarian law and whether stable authority structures capable of ensuring respect for international humanitarian law exist in the area under the control of the recipient.

Other factors to be taken into account

24. In addition to the criteria mentioned above, Finland expresses its willingness to include other factors to be taken into account as elements of a legally binding instrument. Such factors or key considerations to be considered could include whether the proposed transfer would:

- Be used in the furtherance of terrorist acts;
- Be used in the commission of violent crimes;
- Would negatively affect the internal situation of the country of destination;
- Adversely affect regional stability or security;
- Entail a risk that the products might be resold or re-exported under undesirable conditions.

25. Unless a State could be sure that the proposed transfer would not breach any of these conditions, it should be required not to grant the licence.

A reporting obligation as an arms trade treaty component

26. In order to improve the efficiency of the future instrument, Finland believes it would be useful if it contained a reporting obligation. States parties would have an obligation to report regularly to a competent United Nations body about the destinations and values of their arms exports.

27. Finland is also willing to enter into discussions on a mechanism for enforcement and monitoring, if partners see merit in such a discussion.

28. Finland is willing to discuss the inclusion of adequate provisions for cooperation and assistance in order to ensure the universal application of the standard.

Conclusion

29. Finland has offered these initial views on the feasibility and scope of and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the transfer, import and export of conventional arms in

the hope that they will facilitate the future debate on this subject, particularly by the group of governmental experts. Finland wishes to underline its willingness to cooperate on the issue with all other Member States, as well as other stakeholders and interested parties.

France

[Original: French]
[23 April 2007]

Introduction

1. The international trade in conventional arms has changed radically since the 1990s, following the emergence of new threats and as a result of the gradual globalization of the arms industry and the arms market.

2. Prevention of the illegal transfer and irresponsible spread of conventional arms and the fight against terrorism are key security and defence challenges to which the international community must respond by providing itself with suitable control instruments.

3. Defence policies and military doctrines have changed to adapt to new forms of conflict. The modernization of armed forces, the concept of the use of projection forces, particularly in the context of peacekeeping operations, and the establishment of regional forums on common security and defence have generated new needs, both in respect of weapons of sovereignty and for security and defence equipment.

4. In the armaments industry, globalization takes the form of an increase in component production, relocation of production, the multiplication of subsidiaries, the diversification of arms-producing countries and the intertwinement of military industries and civil technology. Changing supply and demand on the arms market partly accounts for the increase in the number of cooperation programmes, which contribute in turn to increased international transfers of conventional arms and their ammunition.

5. In this respect, France is concerned about the growing uncontrolled presence of non-State actors in armed conflicts. This factor, noted in many United Nations reports, is paralleled by the increasing emergence of non-State actors in arms transfers. Arms traffickers joined together in short-lived coalitions are today in a position to destabilize States and entire regions. These traffickers enjoy relative impunity by taking advantage of the diversity of our national legal and legislative systems and making the most of a globalization that was, however, not intended to serve them.

6. In these circumstances, insufficient progress in the harmonization of control systems increases the risk to peace and security.

7. France therefore considers that the establishment of common rules or principles for the international trade in conventional arms must be seen as a priority security challenge for all States.

8. By virtue of the right to self-defence (Article 51 of the Charter of the United Nations), all States may produce, import, export, transfer and hold arms or engage in brokering activities for the purposes of their own defence and security. The embargoes decided by the Security Council in order to resolve a regional or

domestic crisis are the sole legitimate exception to this rule. The legal arms trade is a prerogative of sovereignty.

9. France is one of the main protagonists in the arms trade and ranks among the leading world exporters. It applies a responsible and binding arms trade control policy in strict compliance with its commitments at the regional and international level.

10. In domestic law, under the French Defence Code, arms exports are prohibited as a general rule. Waivers are granted by the Prime Minister following investigation of applications by the Interministerial Commission for Examination of Exports of War Material (CIEEMG). This arrangement ensures that all export authorization decisions form part of a clear and coherent whole. In addition, procedures for the import, export and transfer of war material, arms, ammunition and similar material are laid down by French Defence Code implementing provisions.

11. At the international level, France strongly supported the elaboration, adoption and implementation of the European Union Code of Conduct on Arms Exports with its dual objective of transparency and harmonization. Accordingly, since 1998, CIEEMG decisions comply with the eight criteria laid down by the Code of Conduct. The Code also includes a mechanism for consultation and exchange of information among partners which allows for the gradual harmonization of export policies within the European area.

12. Within the framework of the United Nations, France wishes to work towards establishing an international treaty on the trade in conventional arms. France welcomes the adoption of United Nations General Assembly resolution 61/89 of 6 December 2006, which provides for the creation of a "comprehensive, legally binding instrument" to regulate international trade in conventional arms. It welcomes the massive support shown for the adoption of this resolution and hopes that the national responses transmitted to the Secretary-General will reveal the constant interest and lasting effort that it may inspire.

13. The principal objective of such a treaty will be to lead States to adopt rules on responsible, transparent and proportionate behaviour regarding the transfer of conventional arms.

14. For it to be effective the future treaty will need to be universal in scope and, in any event, to be adopted immediately by the greatest number of States, particularly by the principal importers and exporters of arms.

Feasibility

15. The future treaty can be expected to become the universal reference tool based on existing commitments in the field of conventional arms. In view of the multiplicity of sources for the regulation of international arms transfers, France recommends that a preliminary study should be carried out on the set of standards to be used as a reference. Such a study will offer an opportunity to look into the most effective way of incorporating the future instrument into the existing system of international, regional, subregional and national standards with a view to achieving effective control at all levels.

16. For the future treaty to be supported by the greatest number of States, with a view to ensuring its universality and out of concern for its legitimacy, the selection of sources will be based primarily on United Nations sources.

17. The principal difficulty the treaty must overcome lies in the differences currently existing between regional instruments and between national control systems. The future treaty should aim to harmonize standards and, so far as possible, to give universal effect to existing rules that appear to have best proved their worth.

Scope

Scope of equipment

18. France recommends that a dedicated list be compiled to determine the range of conventional arms, possibly drawn from existing lists of military equipment, first and foremost the United Nations Register of Conventional Arms. This list should be limited to conventional arms and their ammunition.

19. The minimum basis for the list should be the United Nations Register of Conventional Arms, with the necessary addition of an eighth category for small arms and light weapons and their ammunition, including man-portable air defence systems (MANPADS).

20. At this stage, France recommends that a more inclusive range of arms should be considered which could take into account, in addition to the question of small arms and light weapons and their ammunition, transfers of all conventional arms ammunition and possibly repair and maintenance equipment intended to ensure operability for all such arms.

21. To respond to specific security needs, this range could later be supplemented if necessary by means of additional protocols on particularly sensitive arms and defence materials. The new list should be:

- Understandable and operational for manufacturers as well as the Government department responsible for control, low-export States as well as those with a substantial arms industry, and importing as well as exporting States;
- Clear for everyone;
- Technically precise.

Scope of transfers

22. Regarding exports, the treaty can be expected to define the international principles by virtue of which each State may determine whether or not to grant export authorizations in response to applications submitted to them. Regarding imports, States should be called on to adopt national rules to regulate imports into their territories.

23. France wishes to stress that the notion of transfer can cover various realities. It accordingly recommends that the matter should be discussed with a view to arriving at an open-ended definition of international transfers of conventional arms. The definition could include brokering activities, assignment with or without payment, re-exports, temporary exports, transits and trans-shipments, transfers of production capacity and transfers of intangible goods.

24. Transfers included in the scope of the treaty should be limited to cross-border transfers with a change of owner or user. They should concern all types of actors and end-users, whether governmental or non-governmental, private or public.

25. Lastly, the treaty should include the issue of operational needs in connection with the movement of armed forces, particularly within the context of peacebuilding and peacekeeping missions.

26. Regarding brokering activities, France is in favour of introducing all references to ongoing work on this issue by the group of governmental experts established by resolution 60/81 of 11 January 2006, particularly on best practices, whose incorporation into national legislation on brokering in small arms could be recommended.

General parameters

Political principles

27. The general parameters are the political principles that States parties to the treaty will undertake to put into effect. They will apply to all actors involved in the transfer (manufacturers, suppliers, intermediaries and clients).

28. To lead States to adopt standards of responsible, transparent and proportionate behaviour in regard to transfers of conventional arms, France considers that the treaty should encourage the adoption of national export control systems that are in line with existing international standards and provide for the implementation of measures decided by the United Nations Security Council. It further considers that the treaty should restrict the supply of arms and ammunition in unstable areas; respect human rights and preserve peace, security and regional stability; prevent misappropriation; improve the management of stockpiles of arms that may have destabilizing effects and encourage the destruction of stockpiles of arms in excess of defence needs; and lastly, increase transparency with regard to arms transfers.

29. France considers that such commitments should go hand in hand with enhanced international and regional cooperation in these fields. Such cooperation could build in particular on the exemplary efforts already being made by regional organizations in Africa (Economic Community of West African States, South African Development Community and the Nairobi Convention) and Europe (Organization for Security and Cooperation in Europe and the European Union).

30. The preambular paragraphs of the resolution recall the purposes and principles enshrined in the Charter of the United Nations and reaffirm respect for international law, human rights and international humanitarian law. They commend the initiatives undertaken by States at all levels and the role played by non-governmental organizations and civil society to build confidence and transparency in the field of responsible arms trade. The preambular paragraphs of the resolution are compatible with the European Union's Code of Conduct and the Principles Governing Conventional Arms Transfers adopted by the Organization for Security and Cooperation in Europe. For all these reasons, they could provide the substance of the general parameters.

31. France suggests that a stock taking should first be made of existing and binding standards in this field, starting with instruments that impose prohibitions or

limitations, such as the Geneva Conventions and their Additional Protocols and Security Council embargoes, in order to include them in the general parameters.

Operational criteria

32. To give States the means of pursuing a responsible and proportionate policy in the field of arms trade, France would support the idea of adding to the political principles a list of operational criteria for their implementation. These criteria would serve as an analytical grid for States to assess each import, export or transfer application submitted to them and at the same time provide both their government departments responsible for control and other States parties with transparent and clear reasons for the rejection of such applications. These criteria could be based on the criteria for refusal set out in the European Union Code of Conduct on Arms Exports.

33. The political principles together with the operational criteria could constitute all the general parameters.

Implementing measures

34. France considers that, once established, the treaty will only be feasible if it has provided for means to assist States in implementing it. The effectiveness of the treaty will therefore largely depend on the following implementing measures:

(a) Control measures. Each State signatory to the treaty should undertake to provide itself with an appropriate set of laws and administrative procedures regarding transfers of arms, together with strict implementing measures. To seek growing convergence in the interpretation of the treaty and in its implementation it might be useful to explore the possibility of joining political commitments to the treaty, in the form for instance of a guide of best practices or a peer-review system on control mechanisms.

(b) Transparency and confidence-building mechanisms. The treaty should provide for one or more transparency mechanisms with a view to building confidence among States and furthering their cooperation. It could in particular require the annual publication of national reports and the keeping of a universal register on transfers based on the United Nations Register of Conventional Arms. Information could be exchanged in ways to be defined on export licences that have been granted or denied.

(c) Educational measures to assist in implementation and performance assessment. Designed to assist the least developed States and regions in controlling arms transfers, such measures will, for instance, in accordance with the gradualit
y principle, ensure the organization of outreach workshops, training of governmental experts in customs and control and sharing of best practices.

Anti-corruption clause

35. In accordance with the principles of responsibility and transparency, France suggests that the future treaty should include a clause aimed at combating the bribery of foreign public officials in the context of international trade transactions, covered by several existing instruments.

Conclusion

36. The creation of a group of governmental experts by the end of 2007 is a significant step in the elaboration of an international treaty establishing common international standards for the import, export and transfer of conventional arms. France intends to take an active and constructive part in the work of the group.

37. France considers that this work should take into account the specific situation of each of the continents affected by the spread of conventional arms and the relevant experience gained within regional and subregional organizations. It could draw in particular on existing confidence-building and cross-border cooperation measures, insofar as these will attest to the effective implementation of the principles of responsibility, transparency and proportionality in arms transfers on which the future arms trade treaty is to be based.

Georgia

[Original: English]
[30 April 2007]

Introduction

1. Georgia fully shares the common approaches of the international community towards the problem of excessive accumulation and uncontrolled spread of conventional arms and ammunition, which represents an extremely desperate threat to international peace and security. Further development of an effective and strong control mechanism for international arms transfers is one of the principle priorities for the international community.

2. On 6 December 2006, Georgia, as a co-sponsor together with other 152 States Members of the United Nations initiated a process aimed at development of an international legally binding arms trade treaty to regulate international transfers of conventional arms.

3. United Nations resolution 61/89 "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", adopted with the resounding support of 153 countries, reaffirms the inherent right of all States to self-defence and acknowledges the right to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs.

Feasibility

4. A new international arms trade treaty should be based on fundamental principles of international law on international transfers of conventional arms.

5. Georgia is convinced that the Charter of the United Nations and associated Security Council resolutions controlling arms transfers, Security Council embargoes, the United Nations Register of Conventional Arms, the United Nations Guidelines for International Arms Transfers (1966), the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in SALWs in all its Aspects (2001), the OSCE Principles Governing Conventional Arms Transfers (1993), the OSCE document on Small Arms and Light Weapons (2000), the EU Code of Conduct (1998), the Convention on Prohibitions or Restrictions on the Use

of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects, the Protocol to the Convention against Transnational Organized Crime (2001), the P5 Guidelines for Conventional Arms Transfers (1991) are international and regional instruments which should play a crucial role in the creation of arms trade treaty.

Scope

6. The scope of the arms trade treaty should be broad enough to cover all conventional arms, especially small arms and light weapons, which often circulate in a civil society, and all transactions concerning trade in arms, including import, export, re-export transfers, transit, assembly, stockpile management, brokering, financing, use, etc.

Draft parameters

7. The arms trade treaty should set international rules and special standards for Member States to achieve transparency in the field of conventional arms trade sphere.

8. The treaty should prevent the illicit trade of arms and ammunition which might be used for acts of aggression and provoke armed conflicts or prolong frozen conflicts, it should set strong sanctions against States supplying unrecognized regimes with arms and ammunition. It must be stressed that conflict zones represent a fertile ground for international crime and terrorism.

9. A point about inspection of arms and ammunition producing companies/factories and examination of the labelling and marking processes should be included in the treaty.

10. An appropriately qualified expert group should be created within the treaty framework to conduct inspections of the above-mentioned companies. Members of the group should preferably be chosen on a rotating basis; moreover, all States should provide an equal number of logistics, verification and armaments experts (advisably in active service). In addition, there might be a limited number of permanent staff in the expert group, to conduct office work. Chairmanship in the expert group might be in the alphabetical order of the participant States.

11. The creation of a database should be included in the treaty. It should provide an inventory of annual quantitative data on intermediary organizations in arms and ammunition trade, and of contracts executed by them. These statistics should be discussed together with the information provided by States. The creation and administration of the database could be implemented by the technical personnel of the group of experts.

Germany

[Original: English]
[12 March 2007]

Introduction

1. Germany believes that the unregulated and uncontrolled spread of conventional arms and ammunition poses a pressing task. We firmly support the

objective of establishing effective common international standards for their import, export and transfer with the aim of reaching agreement on a comprehensive and legally binding international instrument as proposed in resolution 61/89, adopted by the General Assembly on 6 December 2006. In order to combat effectively the illegal transfer of arms and ammunition, an agreed regulatory framework for arms transfers in general is required. Germany would like to engage in a thorough discussion about the common instrument we want to shape. Therefore it is important to gather as many views and opinions as possible.

Feasibility

2. Germany welcomes the impressively strong and growing support among Member States across all regions for establishing an instrument to prevent irresponsible or illegal imports, exports and transfers. We acknowledge the importance civil society attaches to the project of an arms trade treaty.

3. A large number of Member States already participates in relevant initiatives and mechanisms undertaken at the international, regional and subregional levels. In view of the significant number of shared principles, norms and best practices stemming therefrom, Germany is convinced that a solid foundation for agreeing on common international standards exists, on which Member States can successfully build and conclude an international instrument within the framework of the United Nations.

4. The Secretary-General's report containing the views of Member States and the subsequent deliberations and report of the group of governmental experts will provide crucial input for the further elaboration of an arms trade treaty.

Scope

Definition of the conventional arms and ammunition to be covered by the instrument

5. Germany believes that the instrument should cover all conventional arms, including ammunition. The instrument should comprise, but not be limited to, the categories of the United Nations Register of Conventional Arms, since they are not sufficient in scope. In particular, small arms and light weapons (SALW) including their ammunition and MANPADS should be included. Due consideration should also be given to the inclusion of related material, such as components and manufacturing equipment or technology.

6. It seems desirable to elaborate a detailed list to avoid ambiguity regarding the question of whether an item is actually covered by the instrument. An indication and some guidance on how such a listing could be developed might be drawn from existing regional arrangements.

Definition of the transactions to be covered by the instrument

7. Only a comprehensive definition of the range of transactions to be covered will enable Member States to tackle effectively the problems that result from the absence of common international standards on the import, export and transfer of conventional arms. Such a definition should not only cover imports, exports and transfers in a narrow sense, but also encompass transit, trans-shipment, temporary imports or exports for various purposes (manufacturing, testing, trade exhibitions), retransfer and brokering. Consequently, the group of governmental experts will have

to take into account the progress made on an eventual future instrument on brokering. Furthermore, the issue of intangible transfers of technology as well as licensing need to be considered in this context. The instrument should be limited to cross-border transactions entailing transport from one State's territory to that of another State. Transactions should not be restricted to those between Governments and should cover imports, exports and transfers for State or private end-use.

Parameters

Criteria

8. The determination of adequate criteria for responsible and legal export, import, and transfer of conventional arms and ammunition constitutes the core of an arms trade treaty. A solid consensus needs to be built among exporting countries, those who are currently developing arms industries and importing countries, carefully balancing their interests if an agreement is to be reached. Only an inclusive approach binding on producers, suppliers and consumers can make a meaningful contribution to controlling the spread of conventional arms and ammunition. Moreover, it needs to be guaranteed that such criteria do not interfere with the right of all States to manufacture, import, export, transfer and retain conventional arms for individual or collective self-defence in accordance with Article 51 of the Charter, legitimate security needs and in order to participate in peace support operations.

9. Detailed individual criteria will have to be elaborated. Germany believes that these should address, inter alia, the following broad issues, pending further specific elaboration: respect for international or regional obligations or commitments (including obligations to fully comply with Security Council arms embargoes), respect for international human rights law and international humanitarian law, the maintenance of international and regional peace, security and stability, the promotion of sustainable development, the prevention of internal or regional armed conflicts or terrorist acts, and the prevention of the diversion of arms within the buyer country or their re-export under undesirable conditions. It will be crucial to devise guidelines on how to assess the existence and degree of a risk that the above criteria might be violated by authorizing a proposed transaction.

Practical implementation

10. While the instrument will establish global principles that will make a fundamental contribution to ensuring responsible arms trade, the actual decision about authorizing a transaction is incumbent on the individual State. In order to help States to benefit to the full from the instrument, sufficient transparency, information-sharing and reporting requirements are necessary. Furthermore, feasible monitoring and enforcement mechanisms need to be included for the instrument to function effectively. The group of governmental experts will also have to consider means of international assistance and cooperation in order to allow full implementation in all Member States.

11. A central issue for the practical implementation of all export controls is end-use verification. The international instrument needs to stipulate appropriate measures to ensure that the arms reach and remain with the intended end-user. While complete and precise documentation constitutes an essential part of the end-use

verification process, only a comprehensive and flexible approach will enable a reliable assessment.

Conclusion

12. Germany hopes that these initial views on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms will contribute to moving the discussion on an arms trade treaty forward. The establishment of the group of governmental experts which will commence its work in 2008 is a promising further step in the development of such an instrument. Germany will fully and actively support the Group and all future efforts for the successful conclusion of an arms trade treaty.

Germany (on behalf of the European Union)

[Original: English]
[7 May 2007]

Introduction

1. The European Union attaches great importance to the development of a comprehensive, legally binding instrument for the import, export and transfer of conventional arms. The Council of the European Union in its conclusions of 11 December 2006 welcomed the formal start of the process towards the elaboration of a legally binding international arms trade treaty through the adoption of United Nations General Assembly resolution 61/89 on 6 December 2006.

2. The European Union is convinced that the United Nations is the only forum that can deliver a truly universal instrument and welcomes the strong support across all regions for this instrument. As a regional organization with an efficient multilateral export control mechanism, the European Union would like to share its experiences and views on feasibility, scope and draft parameters for a treaty covering the trade in conventional arms.

Feasibility

3. Over the last decade, the European Union has developed a multilateral export control system for conventional arms, including ammunition. The European experience demonstrates the feasibility of agreeing on binding international norms without depriving States of their national prerogative to license or deny individual exports. The European Union believes that, based on existing responsibilities of States Members of the United Nations under relevant international law, there is solid ground for establishing binding international standards for the import, export and transfer of conventional arms on a global level. The European Union acknowledges the large number of existing relevant mechanisms at international, regional and subregional levels in all regions.

4. The European Union feels that a binding universal instrument is not only feasible, but urgently needed. Since many different countries have developed significant arms production capabilities or acquired large stocks of arms, the traditional distinction between producers, suppliers and consumers no longer reflects the realities of the arms trade. It is therefore of the utmost importance to

establish a universal and inclusive system assuring high basic standards governing the import, export and transfer of conventional arms. The European Union shares the view expressed by the United Nations General Assembly that the absence of such a system is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development.

Scope

5. In considering the scope and draft parameters of an international instrument for the import, export and transfer of conventional arms, the European Union would like to offer the following details of the European Union Code of Conduct on Arms Exports in the hope that this will aid and inform the work of the group of governmental experts. In order to be effective, an international instrument needs clear definitions of the goods and transactions to be covered.

6. The EU Common Military List contains items ranging from firearms to components specially designed for military use and weapon platforms (armoured fighting vehicles, combat aircraft including helicopters, warships). It also includes equipment for their production, as well as software and technology for the development, production or use of the items mentioned. Input for drawing up the EU Common Military List is taken from relevant international arrangements (e.g. the Wassenaar Arrangement Munitions List).

Parameters

7. The core of the EU Code of Conduct consists of a detailed set of criteria, which give guidance for licensing decision makers. In the present context, these can be summarized as follows:

- Respect for the international commitments of Member States, in particular the sanctions decreed by the United Nations Security Council and other international obligations;
- The respect of human rights in the country of final destination;
- The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts;
- Preservation of regional peace, security and stability;
- Legitimate security interests of Member States;
- The behaviour of the buyer country with regard to the international community, in particular its attitude to terrorism and respect for international law;
- The existence of a risk that the equipment might be diverted within the buyer country or re-exported under undesirable conditions;
- The compatibility of the arms exports with the technical and economic capacity of the recipient country.

8. The EU Code of Conduct does not deprive States of their right to manufacture, import, export, transfer and retain conventional arms for individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations. The

decision-making power about licensing or denying a transfer remains within national discretion.

9. The European Union's experience with developing a multilateral export control system for conventional arms points to the need for dialogue and mutual trust in making any system work. In the EU context this includes a mechanism for sharing information on the approval and denial of transfers.

Conclusion

10. The European Union is committed to engaging in the future consultation process leading to a comprehensive, legally binding instrument for the import, export and transfer of conventional arms. The growing support in all regions is an encouraging signal to tackle the problems arising from the irresponsible and illicit arms trade. The experience of the European Union shows that international arms export control mechanisms can have a significant impact on security, stability and sustainable development. We reiterate our call upon all States Members of the United Nations to actively engage in the negotiations for an arms trade treaty.

Hungary

[Original: English]
[8 May 2007]

Introduction

1. The Republic of Hungary is of the view that th[illegible]ence of legally binding international norms of a comprehensive nature on th[illegible], export and transfer of conventional arms has the potential to undermi[illegible]onal peace and security, jeopardize sustainable development, contribute [illegible] and terrorism, and result in violations [illegible] international humanitarian [illegible] not questioning States' unalienable [illegible] under Article 51 the Ch[illegible]nited Nations to individual or collective sel[illegible]nce and thus [illegible]aintain legitimate defence manufacturing ca[illegible]ities, Hungar[illegible]importance to addressing the irresponsible and ille[illegible]rns of [illegible]

[illegible] view of the [illegible] United Nations General Assembly resolution [illegible]39 [illegible]

[illegible] We be[illegible] non-governmental organizations and representat[illegible]beneficial to the process. Hungarian instit[illegible]and non-governmental alike, were duly informed ab[illegible]en the possibility of expressing their positi[illegible]

4. [illegible]ne inp[illegible]on the arms trade treaty initiative [illegible]nited Nati[illegible] as possible, with a view to gu[illegible]ment would [illegible] negotiated on a wide mult[illegible]

Feasi[illegible]

5. Notwithsta[illegible]that arms can be considered sensitive items and hence that the international trade in arms is a sensitive activity, Hungary is convinced that

a legally binding (universal) multilateral instrument to be adopted in the framework of the United Nations is feasible and represents an attainable goal for the international community.

6. In this regard it is worthwhile recalling that over 150 Member States supported the adoption of the arms trade treaty resolution.

7. In addition, the already existing politically or legally binding international commitments, initiatives and arrangements in this field are manifold. The scope and applicability of these instruments, however, does not in all cases specifically cover conventional arms and related export control. Furthermore, some documents have a regional approach; hence they are not universal and their membership remains limited.

8. While the new arms trade treaty could and should draw upon these instruments it should be adapted so as to regulate these matters in an authentic and independent manner.

9. The following is a non-exhaustive list of relevant international arrangements:

- Legally binding multilateral instruments: Charter of the United Nations; relevant United Nations Security Council resolutions; Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Geneva, 10 October 1980); United Nations Register of Conventional Arms (General Assembly resolution 46/36); Montreal Convention on the Marking of Plastic Explosives (1991);
- Politically binding multilateral instruments: United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (2001); P5 Guidelines for Conventional Arms Transfers (1991); OSCE Principles Governing Conventional Arms Transfers (1993);
- Legally binding regional instruments: ECOWAS Convention on Small Arms and Light Weapons (2006);
- Politically binding regional initiatives: European Union Code of Conduct on Arms Export (1998); OAS Model Regulations for the Control of Firearms (1998);
- Politically binding other instruments: Wassenaar Arrangement on Export Control for Conventional Arms and Dual-Use Goods and Technologies (1995).

Scope

10. The scope of a future comprehensive legally binding instrument relates to the items and activities that the arms trade treaty should cover. This is an issue of key importance hence it should be examined in detail.

11. Hungary believes that for the purpose of ensuring the credibility of the arms trade treaty initiative the term conventional arms as referred to in resolution 61/89 has to be interpreted as broadly as possible, which would include ammunitions, components, related software and technology. Member States can examine already existing instruments and practices such as the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons

in All its Aspects; United Nations Register of Conventional Arms; Munitions List of the Wassenaar Arrangement.

12. Given the fact that dual-use items (which can be used for both civil and military purposes) could have relevance to conventional arms trade, the possibility of looking into this matter should not be ruled out.

13. While supporting the broadest interpretation possible as described above, we are of the view that the scope of the arms trade treaty should cover as a minimum objective SALW (including ammunition MANPADS) and major conventional arms according to the United Nations Register. This approach is necessary to set up effective common international standards for conventional arms trade, which as recognized by resolution 61/89 is a contributory factor to conflict, displacement of people, crime and terrorism.

14. Whatever the end results may be, a clear definition of all items falling under the scope of the arms trade treaty has to be agreed upon and spelt out in the treaty.

15. The categories of import, export and transfer as referred to in resolution 61/89 should be interpreted in the light of the latest relevant international developments to ensure that current challenges are addressed promptly and effectively. This would imply that the future instrument would have to cover a wide range of activities pertaining to conventional arms trade. Building on the work and experience of international export regimes, possible examples for activities to be regulated in the treaty could be transit, trans-shipment, brokering, intangible transfer of technology, re-export.

16. It is essential to have clear definitions of all activities that the arms trade treaty would cover.

Parameters

17. Determining a comprehensive list of binding criteria against which applications for arms export are assessed by States Members of the United Nations constitutes the core element of any future universal instrument on arms trade. General consensus should be reached on the fundamental conditions and guidelines States apply and take into consideration when forming a judgement.

18. These rules have to be clearly defined, explained in detail if necessary, accepted and understood by all relevant actors, such as the competent authorities of the States parties, representatives of the arms industry and NGOs. In addition, guidelines based on best practices could be elaborated to achieve coherent implementation of the instrument.

19. The following set of criteria should in our view constitute the minimum core obligations for future States parties to the arms trade treaty when forming a judgement on arms transfer applications:

- Respect for international commitments of the States parties (international obligations with particular emphasis on United Nations Security Council sanctions spelling out arms embargoes);
- Respect for international law, including international human rights and humanitarian law in the country of final destination;

- The risk that the arms that are to be transferred would be used for the commission of terrorist acts, violent crimes or for acts related to organized crime;
- To ensure preservation of regional peace, security and stability;
- The prevention of destabilizing accumulations of conventional arms.

Other related remarks and recommendations

20. Conventional arms trade should be Government sanctioned, falling under national State sovereignty and encompassing inter alia Government to Government, State to State transfers of conventional arms, not including, however, intra-State transactions. Decisions on licence applications should be made on a case-by-case basis.

21. Hungary is convinced that for a smooth implementation of the future arms trade treaty, national authorities possessing the competence and expertise required for arms trade licensing should be established as part of the administrational framework of every future States party. In this connection comprehensive legislation on arms transfers must be put in place and applied consistently. States parties to the future arms trade treaty should also undertake to adopt all necessary measures including legislative ones such as penal sanctions to prevent and suppress the violation of treaty norms by natural persons or legal entities. In this regard with the view to provide appropriate training and/or technological cooperation if necessary a special sponsorship programme might be set up by the treaty.

22. A well functioning compliance mechanism applicable to the future arms trade treaty would be useful in terms of facilitating the implementation of the treaty. Consultation, coordination, enhanced cooperation and exchange of information between State parties, reporting obligations and the establishment of a database are potentially useful means to achieve the above goal.

23. When setting up a compliance mechanism for the arms trade treaty the group of governmental experts could consider defining a review process through regular meetings of States parties, which would assess the operation of the treaty. Another separate or parallel option might be to establish a separate organization entrusted with ensuring the implementation of relevant arms trade treaty provisions and providing furthermore a forum for consultations and cooperation among States parties.

Conclusion

24. Hungary fully supports the arms trade treaty initiative in the firm belief that such a legally binding international instrument would contribute to responsible arms trade and enhance transparency in this field, whereby international security, stability and safety would be further strengthened.

25. In view of the above, Hungary hereby offers her full assistance to the group of governmental experts, which is due to commence its work in 2008 aimed at examining the feasibility, scope and draft parameters for a legally binding international document on international arms trade.

Iceland

[Original: English]
[5 July 2007]

Introduction

1. Iceland favours the conclusion of a legally binding arms trade treaty establishing international standards for the import, export and transfer of conventional arms. It stated its support for such a treaty in the general debate of the First Committee last October and co-sponsored resolution 61/89 "Towards an arms trade treaty".

2. Iceland believes that an effective arms trade treaty has the potential of preventing or lessening humanitarian disasters and other consequences of armed conflict, including violations of human rights, displacement of people, crime and terrorism. Such a treaty would contribute to more responsible arms trade and promote peace, reconciliation, safety, security, stability and sustainable development.

Feasibility of concluding an arms trade treaty

3. Iceland believes that a broad consensus can be reached on a legally binding international instrument on trade in arms. A number of international and regional instruments and arrangements are already in place that promote responsible arms transfers, although no comprehensive international instrument exists. These agreements and arrangements can provide a useful basis on which to build a comprehensive, universal and legally binding agreement.

Elements of the conventional arms trade that should be included in the scope of the envisaged arms trade treaty

Items, intangibles

4. An arms trade treaty should cover all conventional arms and related materiel, which should be listed in the agreement. This would include small arms and light weapons, military vehicles and equipment, paramilitary equipment, mines, munitions, components for such weapons and spare parts, as well as manufacturing equipment. Dual-use items should also be addressed.

5. The treaty should cover technology transfers related to the manufacture, maintenance and use of conventional arms, as well as production licensing.

6. Finally the treaty should cover certain services related to the conventional arms trade, such as brokering and technical training related to the manufacture, maintenance and use of conventional arms.

7. The lists of arms, technology and services in the agreement should include, but not necessarily be limited to, items that are covered by Security Council resolutions on arms embargoes.

Transfers

8. As to the type of transfers, the agreement should cover all cross-border transfers to public or private parties, including the direct and indirect supply and

sale of arms and related materiel. This would include transit, trans-shipment, loans, lease, gifts and temporary imports and exports.

Principles, guidelines and parameters that should govern international transfers of conventional arms

9. An arms trade treaty should set standards applicable to States, but decisions authorizing transactions should be taken nationally. Factors to be taken into account, in addition to existing international (and regional) obligations in this area (such as arms embargoes), should include a risk assessment for potential violations of human rights and humanitarian infractions, terrorist activities, serious crime, corruption, destabilization of and conflict between States or regions, displacement of people and threats to sustainable development. States should be allowed to set higher standards than agreed in the treaty.

10. A permanent institutional structure will be necessary for an effective implementation of an arms trade treaty. It should be set up as economically as possible. Such a mechanism would administer information exchange, monitoring and assistance in implementation.

11. As to compliance and sanctions, the provisions of the Chemical Weapons Convention could be a useful model. For the purpose of effective verification, due consideration should be given to the possible classification of the arms lists under the Harmonized Commodity Description and Coding System, possibly with adaptations in the Harmonized System if necessary.

Other features that might contribute to the development and adoption of an effective arms trade treaty

12. The suggestions put forward in this paper are preliminary ones and may be subject to revision at a later stage. It has been suggested here that an arms trade treaty should be an ambitious one, covering all major aspects of the arms trade. For practical reasons, it may be appropriate to negotiate different aspects separately, either concurrently or sequentially, following thorough preparation and dialogue.

13. In the end, a comprehensive, legally binding and verifiable arms trade treaty has the potential of contributing to greater security, peace and stability for the benefit of all.

India

[Original: English]
[30 April 2007]

1. India fully supports measures that would contribute to international peace, security, sustainable development and respect for human rights. India has always exercised the highest degree of responsibility in conventional arms transfers. India has contributed regularly to the United Nations Register of Conventional Arms transfers since 1994 and has participated actively in deliberations in the United Nations Disarmament Commission and elsewhere on conventional arms transfers. Although India's security interests have also been affected by illicit and irresponsible transfers, especially of small arms, light weapons and explosives, the Government of India is not convinced that it is the absence of common international

standards on trade in conventional arms alone that results in irresponsible or illicit trade. Nor is the easy access that non-State actors, especially terrorists, continue to enjoy to weapons, ammunition and explosives attributable solely to the absence of a comprehensive, legally binding instrument establishing such international standards.

2. All States have the right to self-defence under Article 51 of the Charter of the United Nations and therefore have the legitimate right to acquire means for self-defence, including manufacture and import of arms required to ensure their security. This right also implies that States enjoy the right to engage in trade of arms, including export to another country. While engaging in trade in conventional arms, all States are bound to fully comply with arms embargoes decided by the United Nations Security Council in accordance with the Charter. Furthermore, in regulating the export of conventional arms, they are required to take into account their obligations under international law, including the Charter, international human rights law and international humanitarian law, which provide the universally applicable standards and norms for the conduct of States. In India's view, it is the sole responsibility of Member States to establish firm control over trade in conventional arms, taking fully into account their obligations under both national and international law.

3. It is generally acknowledged that illicit trade in conventional arms contributes to their wanton dissemination to non-State actors and becomes an instrument in perpetrating armed violence by organized criminals or by terrorists. Only by eliminating the illicit trade we can address the basic malaise. It is the lack of full and effective implementation of existing obligation of States and not the absence of common international standards for the import, export and transfer of conventional arms that is to be blamed for illicit transfers or diversion of licit transfers to illicit trade. The Government of India, therefore, believes that priority should be given to:

(a) Full and effective implementation of existing obligations of Member States, in particular those flowing from the United Nations Programme of Action on Small Arms and Light Weapons. The latter includes measures such as export controls, strict national control over production, adequate marking, international cooperation in tracing of illicit arms, control over brokers, effective management of stockpiles, improved regulation of possession by civilians and plugging the gaps in enforcement;

(b) Emphasizing the responsibility of States in ensuring that conventional weapons, in particular small arms and light weapons as well as ammunition and explosives, are neither transferred nor allowed to be diverted to non-State actors;

(c) Existing obligations under the United Nations Programme of Action require national export control procedures to be consistent with the existing responsibilities of States under relevant international law. These encompass obligations undertaken by States under human rights law as well as international humanitarian law. These export control obligations must be strictly implemented, including on the basis of end-user certification;

(d) Enhancing transparency in transfers of conventional weapons, in particular small arms and light weapons.

4. In conclusion, India believes that it is premature to begin work on a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms. India encourages

the United Nations and Member States to continue the process of consultations and consensus building on the issue of conventional weapons transfers. Regional efforts could be encouraged as part of this process so as to act as building blocks for an eventual international effort. This process should be developed without losing the focus on implementation of existing commitments, in particular on the illicit transfers of small arms and light weapons, and by reinforcing commitments concerning the non-transfer and non-diversion of weapons to non-State actors.

Indonesia

[Original: English]
[27 April 2007]

Preamble

1. States have the right to acquire arms to defend themselves. Indonesia wishes to reaffirm the "inherent right of All States to individual or collective self-defence in accordance with Article 51 of the Charter" as well as "the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs".

2. The trade of arms among Governments for the purpose of acquiring military arms to self-defence is legal and should not be hampered. At the same time, it is also realized that the poorly regulated trade and transfer of arms could promote, provoke, or prolong conflicts. In this regard, States have obligations under international law to control the arms on their territory.

3. States' rights to participate in the legitimate international defence trade and industry should be protected. The activities included in the right to self-defence are, inter alia:

- To maintain and develop the defence industries to meet their security needs;
- To participate and join international cooperation in defence projects;
- To import and export arms for legitimate needs.

Feasibility

4. Indonesia is of the view that it is feasible to have a treaty that regulates and accommodates the principles of international transfers of conventional weapons. The arms trade treaty could be a reference for establishing a more effective control and procedure at the national level to prevent, combat or eradicate illicit arms transfers and to prevent diversion to non-State actors or to the illicit market.

5. The lack of global instruments on conventional weapons and small arms and light weapons, both legally or politically binding, indicate that there is a need for a universal, non-discriminatory and multilaterally negotiated instrument on principles for international transfers of such arms and weapons.

6. The arms trade treaty should provide provisions to prevent diversion and prohibit transfer that are likely to be used in conflicts by non-State actors or negatively affect the regional security.

Parameters

7. Resolution 61/89 has mandated the Secretary-General to establish a group of governmental experts in 2008 to examine the feasibility, scope and parameters of the arms trade treaty. The group of governmental experts should be based on equitable geographical distribution and include countries which voted in favour, abstained and voted against the resolution.

8. To start the process in the group of governmental experts, "the Global Principles for Arms Transfer" can be used as a basis. The process of formulating the arms trade treaty should be conducted on a comprehensive, non-discriminatory and multilaterally negotiated basis and in accordance with relevant principles of international law and standards. Like other existing political and legal instruments that set out standards, such as the Charter of the United Nations, United Nations resolutions and related conventions, the arms trade treaty should have clear definitions on the use of terms such as:

- **Arms transfer;**
- **The purposes not prohibited under the treaty;**
- **Arms broker;**
- **Illicit arms brokering;**
- **State licensing.**

9. A provision on international cooperation and assistance should be incorporated to provide appropriate cooperation schemes or assistance to developing countries in the form of capacity-building, technical assistance, law enforcement, or other relevant cooperation and assistance.

10. States parties shall cooperate at the bilateral, regional and international levels to prevent, combat and eradicate the illicit trade in conventional arms. States parties shall seek the support and cooperation of manufacturers, dealers, importers, exporters, brokers to implement the provisions of the treaty.

Scope

11. The arms trade treaty should apply to the prevention of illicit trade in and transfer of arms. It should not apply to State transfers in cases where the application of the provisions would prejudice the right of a State party to take action in the interest of national security consistent with the Charter of the United Nations.

12. Indonesia believes that the instrument must cover a wide range of conventional arms. The scope may refer to General Assembly resolution 60/226 of 23 December 2005 on "Transparency in armaments", and in particular the United Nations Register of Conventional Arms to see potential items of conventional arms to be included for initial discussion in the group of governmental experts.

13. The arms trade treaty should provide a "control list" in an annex to the treaty. The "control list" is a list of items covered by the treaty. The control list should be well balanced in accommodating the interests of developed and developing countries.

Conclusion

14. It is commonly understood that achieving a comprehensive arms trade treaty will be a difficult process, but one cannot give up at the early stage. It is a fact that thousands of civilians are killed every year by conventional arms that were sold and obtained through irresponsible arms transfers.

15. In the end, the arms trade treaty should serve as the cornerstone of a global effort to prevent irresponsible transfers of conventional arms. It will complement and strengthen efforts at national and regional arms control and provide all States with strong common international standards to ensure a responsible arms trade.

Italy

[Original: English]
[10 May 2007]

Introduction

1. Irresponsible and poorly regulated trade in arms fuels armed conflicts, terrorism and organized crime, results in gross human rights abuses and serious violations of international humanitarian law, destabilizes regions and countries and undermines economic development.

2. Italy stands firmly in support of the concept of an international treaty to establish common standards for the trade in conventional arms. A comprehensive legally binding instrument, as envisaged by resolution 61/89, should cover all conventional arms, have provisions based on certain core principles which reflect the mix of entitlement to self-defence and obligations to comply with standards in the Charter of the United Nations, the Declaration of Human Rights and other international law. An arms trade treaty should reflect international obligations of States. Only if those obligations are met by arms exporters can authorizing States claim that their exports and export policies are based on responsible standards.

3. An arms trade treaty should include exports where there is a risk they will be used to breach international law or that they may fuel internal or regional conflict through the destabilizing accumulation of conventional weapons; or where they risk being diverted to terrorists or to criminal networks or being used to abuse human rights.

4. An arms trade treaty, however, should not interfere with the responsible export of conventional weapons for legitimate purposes of self-defence. This is a right, and entitlement, recognized through the Charter in international law. Hence, the treaty Italy would be eager to subscribe to should reconcile humanitarian and developmental objectives with legitimate security needs.

5. Therefore, Italy is ready to make a contribution to the arms trade treaty process by participating in the group of governmental experts.

Feasibility

6. The process to achieve an arms trade treaty should be a United Nations one, as only the United Nations has the membership, the authority and the mix of institutional responsibilities conducive to a global, legally binding instrument.

7. To be effective, a future treaty should be based on the principle of responsibility of States for all arms transfers that are relevant to their jurisdiction. Therefore, in order to reach the goal of a viable and comprehensive legally binding instrument, the views of States approaching the issue from different perspectives, be they customers, suppliers, large exporters or producers with legitimate defence needs should be properly taken into account.

8. The main references of an arms trade treaty remain the Charter of the United Nations, its relevant obligations and United Nations Security Council resolutions, including United Nations arms embargoes, as well as international customary law, especially as far as international humanitarian law is concerned (Geneva Conventions). The absence of a comprehensive, universal instrument dealing with arms trade as a whole is highlighted by the existence of conventions and international, regional and subregional agreements tackling the issue from different perspectives. Among those worth noticing are the following international instruments:

- Convention on Prohibition or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, 1981;
- Convention on the Prohibition of the Use, Stockpiling and Transfer of Anti-Personnel Mines and on their Destruction, 1997;
- Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Protocol to Convention against Transnational Organized Crime, 2001.

9. Moreover, the record of the implementation of regional legally binding agreements might be particularly useful in drafting provisions for a comprehensive treaty:

- Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, 1997;
- Inter-American Convention on Transparency in Conventional Weapons Acquisitions, 1999;
- The 2001 Protocol on the Control of Firearms, Ammunition, and Other Related Materials in the Southern African Development Community (SADC) Region;
- 2004 Nairobi Protocol on the Control of and Reduction of Small Arms and Light Weapons in the Great Lakes Region of the Horn of Africa;
- 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons.

10. The politically binding arrangements and guidelines, which some States have voluntarily entered into, might provide further examples of feasible arrangements, procedural mechanisms and confidence-building and transparency measures:

- The United Nations Register of Conventional Arms, 1992;
- United Nations Guidelines for International Arms Transfers, 1996;
- OSCE Criteria for Conventional Arms Transfers, 1993;

- **Wassenaar Arrangement on Export Control for Conventional Arms and Dual Use Goods and Technologies, 1995;**
- **1998 European Union Code of Conduct on Arms Exports;**
- **1998 OAS Model Regulations for Control of Firearms;**
- **2000 OSCE Document on Small Arms and Light Weapons;**
- **The 2001 United Nations Programme of Action on Small Arms and Light Weapons;**
- **2002 Wassenaar Arrangement Best Practice Guidelines for Exports of Small Arms and Light Weapons;**
- **Antigua Declaration on the Proliferation of Light Weapons in the Central American Region, June 2002;**
- **2003 OAS Model Regulations for the Control of Brokers of Firearms, their Parts and Components and Ammunition;**
- **2003 OSCE Best Practice Guides on Small Arms and Light Weapons;**
- **2004 OSCE Standard Elements of End User Certificates and Verification Procedures for Small Arms and Light Weapons Exports;**
- **2004 OSCE Principles on the Control of Brokering in SALW.**

Scope

11. The first issue to address when defining the scope of an arms trade treaty is to agree on a definition of the items that the treaty should cover. Italy deems that such an instrument, in order to be effective, should be inclusive of the widest range of weapons systems and their ammunition. Therefore, all kinds of equipment specifically designed for military, internal security or policing use, including small arms and light weapons, their parts and components as well as the manufacturing technology, should be covered by the agreement.

12. In this respect the categories currently included in the United Nations Register of Conventional Weapons fall short of this goal. Although the Register could be considered as a baseline, special attention should be paid to the Wassenaar Arrangement, in particular to its Munitions List. The EU Common Military List could also be a useful reference.

13. One or more protocols of the future treaty should be devoted to the categories of military equipment and their technology covered by the treaty, and a review mechanism should be envisaged. A special sub-working group on the items issue should work in parallel to the main working group on the text of the treaty. The acronym ATT should stand for "Arms Transfer Treaty" rather than for "Arms Trade Treaty" as it should deal comprehensively not only with imports and exports but also with transit, trans-shipment, re-transfer and brokering. In this context due consideration should be given to the existing guidelines on brokering (e.g. in the OSCE framework) as well as to the report of the group of governmental experts on brokering which is due to be presented this summer. It is self-evident that the treaty should cover only transfers from the territory of one State to that of another State and not transfers within a State.

Parameters

14. In setting out international legally binding standards for arms transfers the compass should always be the Charter of the United Nations. Breach of international peace and security, non-compliance with United Nations Security Council resolutions and gross violation of human rights should be regarded as core criteria in forbidding the transfer of arms. Hence, the need to comply with United Nations arms embargoes.

15. When considering arms transfers, however, more detailed criteria should be elaborated than United Nations commitments and international customary law, such as: respect for international obligations or commitments, compliance with international human rights standards and international humanitarian law, prevention of internal or regional armed conflict, combat of terrorism and organized crime, diversion of arms within the importing country and risk of re-transfer, illegal brokering activities, sustainable development, in particular when military expenditure exceeds the requirement for self-defence. All of the above criteria, however, should not interfere with the right of all States to manufacture, import, export, transfer and retain conventional arms for individual or collective self-defence, in accordance with Article 51 of the Charter.

16. As far as implementation, monitoring and enforcement are concerned, the operative provisions of a future treaty should be rigorous but not overly burdensome, based on best practices but also taking into account lessons learned as well as a gap analysis of the licensing process in all its aspects. Ongoing capacity-building programmes need, however, to be continued in order to foster effective implementation of the provisions of a future treaty. In principle, all the activities related to the transfer of arms should be subject to Government regulation.

17. Transparency measures, information sharing and reporting requirements are equally crucial for the effectiveness of an arms trade treaty. Information sharing mechanisms might be envisaged to let other States parties know both about transfers authorized and about denials. Monitoring and enforcement mechanisms should also be taken into account. A clear, simple and effective certification system is essential to ensure effective implementation of the treaty. In this respect, one of the priorities should be to define standard elements for end-user certificates and verification procedures, including the drafting of standard forms for licensing authorities.

Conclusion

18. The challenges of the process leading to the conclusion of an arms trade treaty are amazing, both from the political perspective, as it involves fostering the consensus of the largest number of States, and from the legal and technical ones.

19. The overwhelming support among Member States for resolution 61/89, however, encourages all of us to go ahead, no matter how long and hard the way may be.

20. Therefore, it is with great expectation that Italy looks forward to the meeting of the group of governmental experts in 2008 and is ready to offer its contribution to the successful outcome of the process.

Jamaica

[Original: English]
[1 May 2007]

1. Thousands of people are killed, injured or maimed daily as a result of the unregulated global arms trade. There is growing recognition that the absence of common international standards on arms transfers contribute greatly to armed violence, conflict, insecurity and human suffering around the world.

2. As a country directly affected by the illicit traffic in small arms and light weapons, Jamaica recognizes the importance of cooperation among States to ensure adequate controls of transfers and flows of conventional arms and supports efforts towards the creation of a legally binding instrument establishing a regime for the export and transfer of conventional weapons and conventional arms.

3. Jamaica was among the overwhelming majority of United Nations member countries that supported resolution 61/89 and offers the following views on the feasibility, scope and draft parameters for a comprehensive legally binding instrument establishing common standards in accordance with paragraph 1 of the aforementioned resolution.

Feasibility

4. The Government of Jamaica believes that precedent exists at the national, regional and international levels that gives credence to the feasibility of an international arms treaty. Many States have put in place guidelines for arms import and export in keeping with national and international policies and commitments. These are complemented by regional and international initiatives and strategies aimed at harmonizing laws, regulations and enforcement measures.

5. In keeping with its purposes and principles, issues related to the regulation and control of arms transfers have always been on the agenda of the United Nations. Articles 11 and 26 of the Charter of the United Nations make specific reference to the regulation of armaments for the maintenance of international peace and security. A number of resolutions have been adopted by the General Assembly over the years dealing with the control of arms transfers. Limitations on arms transfers are contained in binding decisions and embargoes adopted by the Security Council under Chapter VII of the Charter.

6. In 1991, the General Assembly adopted resolution 46/36 H, urging Member States to exercise effective control over their weapons and military equipment and their arms imports and exports, and called on them to ensure that laws, regulations and administrative procedures are put in place to effectively regulate and monitor the transfer of arms in order to prevent the diversion of arms to unauthorized persons or destinations. The 1996 United Nations Guidelines for International Arms Transfers which were adopted by the General Assembly in resolution 51/47 called on States to establish and maintain an effective system of export and import licences for international arms transfers.

7. In the 2001 United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, States undertook "to establish or maintain an effective national system of export and import licensing or authorization, as well as measures on international transit, for

the transfer of all small arms and light weapons, with a view to eradicating the illicit trade in small arms and light weapons". Similar provisions are contained in the Protocol against the Illicit Manufacturing of Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

8. At the regional level, a number of initiatives have been adopted aimed at regulating arms transfers. These include:

- Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other related Materials;
- OAS Model Regulation for the Control of the International Movement of Firearms, their Parts, Components and Ammunition;
- OSCE Principles Governing Conventional Arms Transfers;
- EU Code of Conduct on Arms Exports;
- 2001 Protocol on the Control of Firearms, Ammunition, and Other Related Materials in the Southern African Development Community (SADC);
- Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technology;
- 2005 Nairobi Protocol and Best Practice Guidelines on Small Arms and Light Weapons;
- 2005 International Instrument to Enable States to Identify and Trace in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons;
- 2006 Convention on Small Arms and Light Weapons of the Economic Community of West African States.

Scope

9. The Government of Jamaica believes that the scope of a comprehensive arms trade treaty should include the following elements:

- The export, re-export, import, transfer, transit and trans-shipment of arms;
- All forms of conventional weapons, including small arms and light weapons, as well as the technology to manufacture such equipment;
- Parts, components and ammunition which constitute an integral part of the arms trade;
- Arms brokering activities, given the critical role of arms brokers in international arms transactions;
- End-use, end-user controls and end-use monitoring to reduce the risk of licit trade becoming illicit trade in arms;
- Enforcement and monitoring mechanism.

Parameters

10. The following are the parameters and principles which should govern the proposed arms trade treaty:

- Principles enshrined in the Charter of the United Nations, including, inter alia, the right of States to self-defence in accordance with Article 51; the sovereign equality of States; non-interference in the internal affairs of States; respect for territorial integrity and political independence; the settlement of disputes by peaceful means; respect for human rights;
- Principles enshrined in the Geneva Conventions on humanitarian law and other sources of customary international law and existing regional and subregional legal apparatus formulated to govern the transfer of arms;
- The right of all States to import, export, transfer and manufacture arms and to acquire arms for legitimate national security needs or participate in internationally mandated peacekeeping operations;
- The responsibility and obligation of States to ensure that legal arms transfers are not diverted into the illicit trade;
- The issue of transfer of arms to non-State actors, particularly in the context where they can be used to facilitate violence or organized crime, terrorism or armed conflict;
- A clear indication of the purpose, aim and intent of the transfer. This should conform to specific standards to which States should be bound in any transaction relating to the transfer of arms.

11. Based on the foregoing, Jamaica is of the view that there is a case for establishing common international standards for the import, export and transfer of conventional arms in order to ensure effective regulation and control of the arms trade.

Japan

[Original: English]
[30 April 2007]

1. United Nations General Assembly resolution 61/89, "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms" ("the resolution" mentioned below), was adopted by the General Assembly on 6 December 2006, with support from 153 Member States. Japan, as one of the original sponsor countries, made efforts in its drafting in cooperation with the other six original sponsor countries. Japan will cooperate with the United Kingdom, which has led others on this issue, and other States, and keep up the momentum of discussions on the arms trade treaty. We will also play a positive role in considering the contents of an arms trade treaty.

2. Japan has both addressed disarmament issues as a peaceful nation proactively since the Second World War, and also voluntarily applied to itself strict standards for importing, exporting and transferring conventional weapons. An arms trade treaty is congruent with Japan's standpoint.

3. The collapse of the Cold War order has triggered numerous civil conflicts, the root causes of which lie in religious, racial and ethnic contexts, accompanied by the refugee and internally displaced persons issue, anti-personnel landmines and small arms. In these circumstances, besides the traditional concept of "State security", the

importance of "human security" has increased and the importance of addressing the spread of conventional weapons has also grown.

4. Japan shares the acknowledgement of growing support across all regions to conclude a legally binding instrument to establish common international standards for the import, export and transfer of conventional arms. Japan also recognizes that the absence of common international standards on their import, export and transfer is a contributory factor to conflict, the displacement of people, crime, and terrorism; that to prevent, combat, and eradicate them, an arms trade treaty needs to exist; and that peace, reconciliation, safety, security, stability, and sustainable development need to be maintained and promoted.

5. At the Workshop on Small Arms and Light Weapons: "SALW issues from the perspective of the protection and empowerment of the peaceful community", hosted by the Government of Japan on 12 and 13 March 2007, discussions on an arms trade treaty took place in the session on transfer control. Workshop participants reconfirmed that, without air-tight controls on arms trade achieved through international cooperation, consisting of humanitarian considerations of States, weapons finally and surely will continue to reach illicit end-users, through a chain of demand and supplies of various transfer-actors. Those weapons then take precious lives of many innocent people. Points discussed at the Workshop and mentioned below are worth being examined when an arms trade treaty is considered:

- Most weapons of concern transferred to conflict and affected areas are second-hand weapons, often released from stockpiles, or produced by poorly controlled manufacturers;
- Most exporters are not manufacturers, and most exporters are importers at the same time;
- To address illicit export, import and transfer, it is important to take a comprehensive approach, which includes both supply and demand sides;
- Although all States have the right to retain arms for self-defence and security needs, responsible transfers need to be achieved, and international controls for them are necessary;
- Once weapons enter communities, they make violence more lethal and conflict more protracted;
- An arms trade treaty does not end arms trade, but will set clear standards and reach agreement on when transfers should not be approved.

Ensuring effectiveness

6. An arms trade treaty needs to be effective. For that, it is necessary to fully understand the present status of conventional arms transfers in establishing an arms trade treaty. An arms trade treaty, without affecting licit arms trade based on the legitimate right to self-defence of each State, is to systematically stipulate scope, international standards for transfer, and measures ensuring those standards for combating illicit arms trade.

7. To ensure the effectiveness of an arms trade treaty, it should be concluded by many States, including both exporting States and importing States. Moreover, it should clearly stipulate the responsibilities of importing States, such as those in

following procedures for importing arms, those in controlling arms in their territories and those in re-exporting them, as well as the primary responsibilities of exporting States.

8. To include weapons to be developed in the future in the treaty, and to ensure the effectiveness of the treaty in the future as well, the treaty is to stipulate the setting up of a committee comprised of States parties. It is beneficial to regularly review the management, lists and/or definitions of weapons under the scope of the treaty, if or when necessary. Whether or not to establish this committee is to be considered by the group of governmental experts in 2008.

Feasibility

9. In considering the feasibility of an arms trade treaty, it is worthwhile referring to the United Nations Register of Conventional Arms, which was established in 1992 and has been enlarging the number of States participating. "If we are to use the statistics of the *SIPRI Yearbook 2005*, the world total of arms exports in the five years from 2000 to 2004 is estimated to be US$ 84.490 billion, of which the amount of exports by the top 30 nations is US$ 83.628 billion, or about 99 per cent of the total. Of these top 30 nations, 28 are regular participants in the Register ... Therefore, theoretically, about 97 per cent of the world's arms export has been made transparent by the Register." ("United Nations Register of Conventional Arms: its review process and achievements so far": Presentation to the United Nations Group of Governmental Experts by Mr. Mitsuro Donowaki, Adviser to the Japanese Governmental Expert, 28 February 2006).

10. That is, if 28 nations regularly participating in the Register and ranked among the top 30 nations in the *SIPRI Yearbook 2005* conclude an arms trade treaty, a considerable level of arms trade will be covered by the treaty. There are some differences between the Register and the treaty. The Register is a confidence-building measure and participation in the Register is voluntary, and registration is basically limited to trade volumes of large-scale weapons for attack. Those States participating in the Register, however, show interest in the transparency and control of arms trade, and voluntarily join the Register. That may show the promising feasibility that an effective arms trade treaty has a good chance. The know-how of experts sustaining the Register, which has led it to unprecedented success, is useful as a reference as an arms trade treaty is under consideration.

Scope

11. The scope of "weapons" in an arms trade treaty is an important point of discussion, which is closely related to the effectiveness of the treaty. Japan considers that overall conventional weapons, including weapons categorized in the United Nations Register of Conventional Arms and small arms and light weapons, should be included in the scope of an arms trade treaty. Furthermore, whether to include the following, related to conventional weapons, should also be considered:

- Parts and components exclusively designed for weapons;
- Facilities exclusively for arms production;
- Exclusive technologies related to arms production, etc.

12. It is natural for an arms trade treaty to include small arms and light weapons, considering "at least 500,000 people die every year as a result of the use of small arms and light weapons" (report of the Secretary-General to the Security Council on small arms, September 2002). If not, it would be difficult to achieve the purpose of the treaty.

13. Whether or not dual-use items are to be included in the scope of the treaty should be carefully considered. Dual-use items having an important role in the technological development of modern weapons on the one hand are also closely related to ordinary business transactions on the other, as well as to the status of development of manufacturing fundamentals and the technological advancement of importing States.

14. For the scope of an arms trade treaty, clear definitions or detailed lists of weapons must be produced. If definitions remain merely ambiguous, management difficulties will create obstacles for the industries concerned and that, in turn, will cause a loss of effectiveness of the treaty.

15. Incidentally, due to characteristics of weapons and technological reasons, management and control measures for weapons could differ according to the type of weapons. Control measures, including scope, could also differ according to import, export and transfer.

Draft parameters

16. Draft principles for an arms trade treaty produced by NGOs have been made through discussions for the last several years, and they make a good starting point for consideration on parameters of the treaty. The following are excerpts from principles for States to conduct responsible transfers, enumerated in the draft principles.

(a) All international transfers of arms and ammunition (hereafter referred to as "arms") shall be authorized by a recognized State ...

(b) States shall not authorize international transfers of arms that violate their expressed obligations under international law. These obligations include: obligations under the Charter of the United Nations — including binding resolutions of the Security Council, etc., any other treaty or decision by which a State is bound, and universally accepted principles of international humanitarian law — including the prohibition on the use of arms that are of a nature to cause superfluous injury or unnecessary suffering, the prohibition on weapons that are incapable of distinguishing between combatants and civilians.

(c) States shall not authorize international transfers of arms where they will be used or are likely to be used for violations of international law, including breaches of the Charter of the United Nations and customary law rules relating to the use of force, gross violations of international human rights law, serious violations of international humanitarian law, acts of genocide, or crimes against humanity.

(d) States shall take into account other factors, including the likely use of the arms, before authorizing an arms transfer, including the recipient's record of compliance with commitments and transparency in the field of non-proliferation, arms control, and disarmament. States should not authorize the transfer if it is likely

to: be used for or to facilitate terrorist attacks; be used for or to facilitate the commission of violent or organized crime; adversely affect regional security or stability; adversely affect sustainable development; involve corrupt practices; contravene other international, regional, or subregional commitments or decisions made, or agreements on non-proliferation, arms control, and disarmament to which the exporting, importing, or transit States are party.

(e) States shall submit comprehensive national annual reports on all their international arms and ammunition transfers to an international registry, which shall publish a compiled, comprehensive, international annual report.

(f) States shall establish common standards for specific mechanisms to control: all import and export of arms; arms brokering activities; transfers of arms production capacity; and the transit and trans-shipment of arms.

17. Principles (a) to (d) above are standards for the authorization of arms transfers. In considering these standards, due attention should be paid to needs based on the inherent right of all States to self-defence. Also, for these standards, continuous discussions will be beneficial, when necessary, in a committee, etc., comprised of the concluding States mentioned above, even after the treaty comes into force.

18. Principles (e) and (f) mentioned above are those for ensuring the effectiveness of the treaty. As for an international registry, using the United Nations Registry of Conventional Arms could be considered from the viewpoint of efficient use of the United Nations budget by utilizing an existing system. When considering whether the purpose of an arms trade treaty can be achieved, this should be carefully examined, for the Registry is a confidence-building measure. Especially, prompt exchange of information may be necessary and important in an arms trade treaty and the submission of reports to the Registry happens only once a year. Consideration of setting up a new international registry is also necessary.

19. It might be good to refer to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the Washington Treaty), for the consideration of verification, and compilation of item lists and transfer controls. In the Washington Treaty, thorough control systems for export, import and re-export, etc. are set up for the protection of endangered species of wild fauna and flora, as are regular committees of the concluding parties, which consider relevant issues, including item lists and improvement of the effectiveness of the treaty, etc.

20. Additionally, consideration of an arms trade treaty should cover the issues of common standards for specific mechanisms to control: arms brokering activities; transfers of arms production capacity; and the transit and trans-shipment of arms. In considering details of an arms trade treaty, reference should be made to the results of forums under the United Nations Programme of Action on Small Arms and Light Weapons, including the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, and a report of the Group of Governmental Experts against illicit brokering in small arms and light weapons, which will be finalized this year.

Conclusions

21. The collective wisdom of member States is necessary to realize an arms trade treaty. Japan intends to participate and actively contribute to the group of governmental experts to be established pursuant to resolution 61/89.

22. Both a group of governmental experts, which will exist for only one year, and continuous consideration by experts are needed for an arms trade treaty. Measures countering illicit arms trade networks, which always try to find loopholes in existing systems, need to be continuously developed.

23. An effective arms trade treaty, which as many States as possible join, should be aimed for. Support for resolution 61/89 from 153 States indicates the existence of a solid basis for creating an arms trade treaty.

Kenya

[Original: English]
[27 April 2007]

Introduction

1. Kenya is pleased to be one of the co-authors of the arms trade treaty resolution, 61/89, that was adopted by the United Nations General Assembly on 6 December 2006. As a developing African country which is heavily affected by the proliferation of illicit small arms and light weapons, Kenya is proud to play a leading role in the international efforts to come up with a global legally binding arms trade treaty.

2. Speaking during the third Ministerial Review Conference of the States Signatories to the Nairobi Declaration and Nairobi Protocol on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, in June 2005, the then Minister for Foreign Affairs, the Honourable Chirau Mwakwere, welcomed the development of international norms and measures to regulate the import, export and transfer of small arms and light weapons.

3. In a communiqué issued during the Extraordinary Council of Ministers of the Regional Centre on Small Arms and Light Weapons (RECSA) in April 2006 in Kampala, the Ministers recognized the importance of guidelines in arms control and appealed to the international community to develop norms on arms transfer. In the First Committee of the General Assembly in 2006 the Permanent Representative of Kenya to the United Nations, His Excellency Mr. Z. D. Muburi-Muita, made clear Kenya's support to the initiative. He pledged to work with all delegations to bring this to fruition. He urged all delegations to grasp the historic opportunity and travel with the co-authors in evolving such an important outcome.

4. As the United Nations process begins we are pleased to submit Kenya's views on the "feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms". We will be encouraging all other countries, particularly developing countries that suffer most from the impact of a poorly controlled arms trade, to also submit their views.

5. The need to effectively control conventional arms, including small arms and light weapons is extremely urgent, in terms both of thousands of innocent lives lost and of precious resources spent. Kenya recognizes that there are extremely powerful economic interests that profit from the trade in conventional weapons; however, the other side of the coin shows millions of people dying from unregulated trade of

these weapons. We urge all Governments to act in the interest of those millions dying every day.

Feasibility

6. Kenya does not underestimate the challenges that lie ahead. We recognize that we are at a very preliminary stage in our fervent wish to see a legally binding global instrument concluded. This will require a great deal of cooperation and understanding by all countries, including from manufacturers, exporters and importers. However it must be emphasized that the prevailing circumstances make it imperative that we take all necessary steps to conclude the treaty in order to ensure that the trade in arms is regulated.

7. Kenya is committed to this project. It is indeed extremely encouraging that 153 Member States of the United Nations voted in favour of beginning this process. We recognize that a number of relevant principles already exist in binding international agreements. In many regions of the world a lot has been achieved either in politically or legally binding frameworks. These include the Best Practice Guidelines for the implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons of 2005. They represent the most progressive and detailed guidelines on arms transfer controls to date. The Best Practice Guidelines provide for:

- Member States to develop strict national transfer control systems in accordance with international commitments. The member States are required to control relocation, shipment, movement of arms across national boundaries whether for sale, directly from the company, brokered for sale by dealers, military aid or free gifts to Government as well as Government sale of surplus equipment;
- Stockpile management, i.e. the control and management in planning, acquisition, possession, record keeping, safe storage, maintenance, refurbishment, production and disposal of the small arms and light weapons in State and non-State possession. All small arms and light weapons should be marked at the time of manufacture with serial number, place and name of the manufacturer. Therefore, small arms and light weapons use and abuse can be traced and tracked;
- A systematic tracking of all small arms and light weapons from manufacturer to purchaser should be established. These assist authorities in detecting, investigation and analysing illicit manufacturing and illicit trafficking. Lack of verifiable data hampers efforts to curb proliferation of illicit small arms and light weapons;
- Public awareness campaign and destruction of small arms and light weapons. This is effective in the prevention of trafficking and proliferation of illicit small arms and light weapons. It assists in changing attitudes and behaviour towards possession of small arms and light weapons and helps to build a culture of peace and restores public confidence;
- Harmonization of legislation at the subregional level, which has diverse systems with differences in capacity of law enforcement and varying levels of internal stability. This makes it legally and technically complex for the implementation of the Nairobi Protocol.

8. The SADC Protocol on Control of Firearms, Ammunition and Other Related Materials of 2001, the ECOWAS Convention on Small Arms and Light Weapons, the EU Code of Conduct, the OAS Model Regulations for the Control of Brokers of Firearms Their Parts and Components and Ammunition, the OSCE Document on Small Arms and Light Weapons and the CIFTA convention all demonstrate that an arms trade treaty is feasible, since there already exist established principles governing arms transfer all over the world.

Scope

9. Kenya believes that a treaty should clearly recognize the right of all States to arm themselves. Kenya further holds the opinion that the treaty should cover the type of arms that most often fall into unauthorized hands and end up having a negative impact. In that respect we therefore suggest that the treaty should cover any international transfers of any conventional arms including:

- **Small arms and light weapons;**
- **Larger conventional weapons such as tanks and aircraft;**
- **Landmines;**
- **Ammunition;**
- **Warships;**
- **Combat aircraft;**
- **Missiles and missile launchers;**
- **Man-portable air defence systems (MANPADS);**
- **Components;**
- **Transfer of technology for the manufacture of such weapons.**

10. The list is not exhaustive but based broadly on the categories covered in the United Nations Register of Conventional Arms.

Parameters

11. Kenya is of the view that decisions on weapons transfers should remain under national control, however the treaty should clearly spell out the responsibilities of States and the factors they should consider when deciding whether or not to allow a transfer. These should include States' existing obligations under international treaties, international customary law and principles recognized by the United Nations. Particular attention needs to be paid to the issues of compliance with United Nations embargoes and respect for human rights and international humanitarian law. Consideration ought to be given, as highlighted in resolution 61/89, to the question of ensuring better control of transfers which are, in the words of the resolution, a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development.

12. We are also of the view that the treaty should set out the practical measures States should put in place to properly control the trade in arms. These measures

should reflect States' existing commitments under international law and should support the purposes and principles enshrined in the Charter of the United Nations.

13. There should also be a system for ensuring proper implementation of treaty provisions. It would also be important that provision be made for transitional periods as well as international support for national implementation measures.

Conclusion

14. The often tragic reality of our time is that weapons do very easily fall into the wrong hands, with disastrous consequences for the civilian population who make up the majority of conflict victims. They are maimed, tortured, rendered homeless and lose their lives as a result of conflicts that are fuelled by the ready availability of conventional weapons.

15. Faced with this reality, it is imperative that States take urgent action to address the problem. In submitting our views on the feasibility, scope and parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, Kenya believes that it is an important step towards a very noble cause.

Latvia

[Original: English]
[27 April 2007]

1. Latvia fully supports the arms trade treaty initiative and was encouraged by the overwhelming support for the adoption of the United Nations General Assembly resolution 61/89. We are committed to working under the auspices of the United Nations for creation of a comprehensive, global and legally binding instrument for trade in all conventional arms.

2. The resolution acknowledges the rights of individual States to manufacture, import, export, transfer and retain conventional arms. However, rights of States should be followed by responsibilities to prevent threats to peace and to ensure effective arms trade controls, both nationally and internationally.

Feasibility

3. The existing international or regional agreements — legally or politically binding — provide a solid basis for the elaboration of an effective and comprehensive arms trade treaty. The international obligations stemming from the Charter of the United Nations and associated United Nations Security Council resolutions, as well as the European Union Code of Conduct on the Arms Trade contain provisions for the creation of a global instrument for controlling the arms trade.

4. Not all countries are parties to the existing agreements, thus they are not obliged to follow the established arms trade monitoring principles. Therefore a universal agreement is essential.

5. The broad support for the adoption of resolution 61/89 bears witness in itself that a vast majority of countries believe in the feasibility of a legally binding

instrument. The new arms trade treaty should enhance information exchange, transparency and contribute to confidence-building measures.

Scope

6. The position of Latvia is that the instrument should cover all conventional arms, including related technology and ammunition. It would be practical to create a detailed list containing items from the United Nations Register of Conventional Arms and the Wassenaar Arrangement list, however the list does not need to be limited to those items. A detailed list would avoid misunderstandings when applying the treaty.

7. To ensure the effectiveness of the instrument all kinds of international transactions with armaments should be covered by it, including import, export, re-export, transfer, transit and brokering activities.

Parameters

8. Recognizing the right of States to self-defence and participation in peacebuilding and peacekeeping operations, minimal international requirements for control of the arms trade need to be laid down in the treaty and made legally binding.

9. A common set of criteria should be agreed on for evaluation of possible transactions. In examining a potential transaction, the following aspects should be taken into consideration:

- Respect for international obligations, including Security Council embargoes;
- Respect for international humanitarian or human rights law;
- Maintenance of international and regional peace, security and stability;
- Prevention of use in terrorist or criminal activities;
- Prevention of diversion of arms.

10. These are just the core elements for evaluation of an export transaction and the criteria should not be limited to those,

11. A mechanism for information exchange among the parties to the arms trade treaty would serve as a means for the transparent application of the instrument, both with regard to approvals and denials.

12. It should remain the competence and responsibility of an individual State to take decisions on authorization of transactions.

13. These are the initial views of Latvia on the scope, feasibility and parameters of the arms trade treaty. We look forward to the establishment of the group of governmental experts as foreseen in resolution 61/89, as well as to a constructive involvement in establishing a global and comprehensive instrument.

Liberia

[Original: English]
[21 June 2007]

Introduction

1. The Republic of Liberia wishes to respond to the request of the United Nations Secretary-General for views on the feasibility, scope and parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms by reiterating the reasons for its "yes" vote on General Assembly resolution 61/89 of 6 December 2006.

2. Liberia's position to support an arms trade treaty is informed by its recent history of more than 25 years of armed violence, beginning with a bloody coup d'état in 1980 and a sustained rebel war which was launched in 1989 and ended only in 2003 with the intervention of subregional (ECOWAS) and international (United Nations) peacekeeping forces. The arms used in this violent crisis, which eventually engulfed the Mano River basin countries of Liberia, Sierra Leone and Guinea and later Côte d'Ivoire, were not produced in our country. Yet, they were easily available even to children as young as 8 years old. By the time the war was over in Liberia and elections brought Mrs. Ellen Johnson Sirleaf to power as the first woman President of an African country, her Government inherited the following, among other things:

- About 10 per cent of the country's 3 million population died from gun wounds or other means facilitated by the presence of arms;
- About 40 per cent of the population became refugees, with a higher percentage having been internally displaced at some point;
- About 5 per cent bore arms at one time or the other for violent purposes;
- The entire Liberian State experienced intermittent collapse, with military, police and other security structures being personalized by rival warlords;
- Social and economic services and infrastructure were destroyed, manifested by:

  The absence of central electricity supply everywhere, including the capital city;

  Non-existent central pipe-borne water anywhere in the country;

  The destruction of educational facilities from pre-school to higher educational institutions;

  The destruction of health facilities;

- 85 per cent unemployment, especially among youth;
- National debt of about US$ 3.6 billion — 568 per cent of GDP;
- Real GDP per capita (even with the slight recovery from the peace dividend) in 2005 amounted to an estimated US$ 191.5 representing only about 15 per cent of the US$ 1,269 level in 1980;

- About 76 per cent of the population living below the poverty line (that is on less than US$ 1 per person a day), with 52 per cent living on less than US$ 0.50 a day;
- Armed violence, arms and destabilizing armed elements were exported to neighbouring countries;
- The rapid decline in life expectancy now standing as low as 48 years due to many poverty-induced factors including the increasing prevalence of HIV/AIDS, which is currently estimated to affect about 8.2 to 10 per cent of the population, and the spread of malaria, tuberculosis and curable and preventable child-killer diseases;
- The expending of scarce subregional, regional and international resources which could have gone for development on efforts to end the war and provide humanitarian assistance. A great deal is still being expended on peacekeeping and peace maintenance operations in the country today.

3. In brief, the grisly picture that these statistics paint of Liberia may pale in the face of the real suffering, pain and mental anguish that Liberians and the people of the subregion have endured as a result of the armed conflicts. These experiences, and the fact that most of those who bore the brunt of the armed violence are youth, qualify our country and Sierra Leone to perhaps be the most severely war-affected in the world.

4. It is principally against this background that Liberia firmly supports the arms trade treaty. Liberia is also mindful that its terrible experience with armed violence is not unique to it. Countries of West Africa and most of Africa share the same experience and have decided to work together to control the flow of arms on the continent.

Feasibility

5. Liberia is of the strong view that an arms trade treaty is feasible. It would build on the wide range of transfer control agreements and documents that exist at the subregional, regional, multilateral and international level. Most recently Liberia joined other countries of the subregion to adopt the 2006 ECOWAS Convention, which sets a high regional standard for regulation of international arms transfers. In spite of our efforts at the subregional level, there remain serious gaps in international controls of the arms trade and variability in implementation of existing agreements. Given the international nature of the arms trade, there is a need for an international, comprehensive and transparent framework for all States to conform to.

6. Such framework must be informed by existing principles found in a number of international agreements such as:

- The Charter of the United Nations;
- The Geneva Conventions and associated Protocols;
- Regional agreements like the Nairobi Protocol on Small Arms and Light Weapons (2005), the SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials (2001), and the 2006 ECOWAS Convention on Small Arms and Light Weapons;

- **And other agreements such as the 2001 United Nations Programme of Action on Small Arms and Light Weapons, including specifically section II, paragraph II; the 1996 United Nations guidelines for international arms transfers; and the 2005 Central American Integration System (SICA) Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Materials.**

7. Liberia strongly believes that an arms trade treaty should reflect the principles contained in these documents, including the need to:

- **Establish clear national procedures for regulating international transfers of arms;**
- **Prevent the transfer of arms that are likely to be accessible and easily used by children;**
- **Prevent and combat illicit arms transfers;**
- **Respect United Nations arms embargoes;**
- **Prevent diversion to proscribed groups such as those who commit terrorist or criminal acts;**
- **Prohibit transfers that violate obligations under international law;**
- **Prohibit transfers that are likely to be used for serious violations of human rights and international humanitarian law;**
- **Prohibit transfers that are likely to be used to commit crimes against humanity or acts of genocide;**
- **Prohibit transfers that adversely affect sustainable development;**
- **Prohibit transfers that are likely to adversely affect international or regional security;**
- **Prohibit transfers that are likely to be used to undermine democracy.**

Scope

8. On the question of the scope of the arms trade treaty, Liberia wishes to draw from the ECOWAS Convention and existing international law to argue that all States may acquire conventional arms only for legitimate self-defence and democratic law enforcement needs consistent with international laws and standards. It should include all conventional weapons and associated equipment such as:

- **Heavy weapons (such as tanks and fighter planes);**
- **Small arms and light weapons;**
- **Parts and components for these arms;**
- **Munitions including ammunition and explosives;**
- **Technology used for manufacturing conventional arms;**
- **Weapons used for internal security;**
- **Dual-use goods intended for military, security or policing purposes.**

9. Liberia suggests that the arms trade treaty subscribes to the ECOWAS Convention, which covers all types of transfers, including import, export, transit and

trans-shipment. Article 20 regulates arms brokering activities. Furthermore, there must be prohibition of all arms transfers to non-State actors that are not explicitly authorized under international law.

Parameters

10. In addressing the feasibility question, Liberia shares some of what must be considered as the parameters that the arms trade treaty must cover. These include the prohibition of international arms transfers if they violate a United Nations arms embargo (directly or by diversion) and other obligations under the Charter; the prohibition of international arms transfers if they are likely to be used to facilitate serious violations of human rights or international humanitarian law (the "rules of war"); and to follow the standard set by the ECOWAS Convention.

11. Other factors that must be taken into account when assessing an international arms transfer are:

- The impact of the arms transfer on sustainable development;
- The impact of the arms transfer on regional security or stability;
- Whether there will be corrupt practices involved in any stage of the transfer;
- Whether the transfer will be used for or to facilitate terrorist acts;
- Whether the transfer will be used for or to facilitate the commission of violent or organized crime;
- Whether the transfer will contravene other global, regional or subregional commitments or decisions made, to which the exporting, importing, or transit States are party.

12. Liberia would like to encourage inclusion of the ECOWAS transparency test by which States are required to report on their transfers, purchases and manufacture of arms.

13. There must be adequate provisions for monitoring compliance, appropriate sanctions for violators of the arms trade treaty and appropriate acknowledgements for those countries that cooperate fully in the implementation of the treaty.

Conclusion

14. Liberia strongly supports a comprehensive arms trade treaty because it sees it as a very important and critical contribution to the consolidation of peace in the country and the West African subregion. It will ensure national, subregional and human security, the revitalization of the economy, the promotion of good governance and the rule of law, and construction or reconstruction of infrastructure, including electricity supply and water plants, roads and highways, bridges, schools and other educational institutions, clinics and hospitals, public buildings, parks and children's playgrounds, etc. These together will have the effect of changing the lives of the people, reducing and later eradicating poverty, especially among the young people who will be too busy in schools and training institutions and at workplaces be led into renewed armed violence by charlatans and demagogues.

15. The arms trade treaty is simply the right thing to do at this time, and it is in the best interest of all peoples the world over.

Lithuania

[Original: English]
[24 April 2007]

1. In the last few decades the illegal trade in conventional weapons and ammunition has contributed to the explosion in the number of armed conflicts, the aggravation of the situation of civilian populations and gross violations of human rights in areas of conflicts.

2. As one of the supporters of the initiative of an arms trade treaty, Lithuania firmly believes in the need for a comprehensive, legally binding instrument aiming at the establishment of common international standards for the export, import and transfer of conventional arms. Lithuania co-sponsored resolution 61/89 adopted by the General Assembly on 6 December 2006 and commended the growing support worldwide for this initiative.

Feasibility

3. A wide array of international and regional instruments relating to the arms trade manifestly point to the feasibility of the exercise. This is acknowledged in resolution 61/89. Current instruments and agreements represent vital building blocks for an arms trade control regime, however, they cover neither all aspects of the arms trade, nor in a sufficient and geographically wide manner. United Nations Security Council sanctions-busting by arms traders is most commonly cited as the best evidence that the arms trade regime needs a firm legal international framework. Wide ground has yet to be covered in establishing common understanding on the principles and standards of the export, import and transfer of conventional arms.

4. International and regional regimes, such as the Wassenaar Arrangement, the European Union Code of Conduct on Arms Export (1998), the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons (1980), and the Anti-personnel Mine Ban Treaty (1997) demonstrate the achievability of common arms trade principles or agreements.

5. Other instruments, like the OSCE Criteria for Conventional Arms Transfers of 1993, the ECOWAS Moratorium (1998), the United Nations Firearms Protocol (2001), the Protocol on the Control of Firearms, Ammunition and Other Related Materials in the SADC region (2001), Wassenaar Arrangement Best Practice Guidelines on SALW (2002), the European Union Council Common Position 2003/468/CFSP on the Control of Arms Brokering (2003) and the Nairobi Protocol (2004), are a strong testament to the will of Governments to engage in arms control.

6. Increased openness and transparency in the field of armaments will enhance confidence, ease tensions, and strengthen regional and international peace and security. It is likely to reduce the occurrence of misperceptions and spur additional confidence-building measures. The Treaty will help States to fight terrorism and crime.

Scope

7. The United Nations Register of Conventional Arms appears to be a useful starting point for discussing items that may eventually fall under the scope of a future arms trade treaty. Small arms and light weapons, including man-portable air

defence systems, must be included. The instrument might also cover munitions, parts and components, and technologies thereof. In order to remove any ambiguity, the instrument ideally might draw upon the Wassenaar Arrangement Munitions List and Dual-Use List.

8. Given the versatility of arms transfers, as well as the range of actors which may be involved, it is desirable for the instrument to cover import, export, transfer, brokering, transit, and trans-shipment. It is also essential that the arms trade treaty apply to all aspects of the trade: State-to-State, State-to-private users, commercial sales, or any other forms of transfer.

Draft parameters

9. Promotion of increased transparency and greater responsibility in the transfer of conventional arms, related services and technologies should be the main aim of an international instrument. This shall be achieved by setting high and universally recognized common standards, imposing within national borders effective export controls and disclosing, to the extent possible, information on arms trade.

10. While cognizant of the complexity of the task involved, it must be recognized that the goals of a comprehensive legally binding treaty shall serve the United Nations purposes enshrined in Article 1 of the Charter. As a minimum, in doing so the treaty shall aim at:

- Establishing provisions that all international transfers of arms shall be authorized by a recognized State and carried out in accordance with national laws and procedures that reflect, as a minimum, States' obligations under international law;
- Establishing operative provisions to monitor enforcement of the future arms trade treaty and review procedures to strengthen the full implementation of its provisions;
- Implementing international commitments, in particular the sanctions imposed by the United Nations Security Council;
- Adopting national controls to deny transfer of conventional arms to States or entities violating human rights, as well as transfers that would undermine peace and security, regional stability, sustainable development, provoke or prolong armed conflicts, enable terrorist acts to be carried out or support or encourage terrorism, or are likely to be used to commit crimes against humanity or acts of genocide;
- Preventing the diversion of arms or re-exporting under undesirable conditions;
- Adopting measures to regulate arms brokers and brokering activities;
- Adopting national legislation and regulations to control trade in arms effectively, including establishing civil and criminal responsibility for breaches thereof;
- Increasing transparency in the arms trade and providing a forum to systematically discuss issues pertaining to responsible trade in arms;
- Ensuring the inherent right of all States to individual and collective self-defence embodied in Article 51 of the Charter, as well as the right of all States

to manufacture, import, export, and transfer conventional arms for self-defence, security needs, or participation in peacekeeping operations;

- Encouraging Governments to submit national reports on international arms transfers to an international registry, which shall publish a compiled, comprehensive, annual report.

Conclusions

11. Lithuania also pays special tribute to the hard work done by NGOs and private citizens to raise awareness of the challenges of unregulated and illicit arms trade.

12. Lithuania expects that the views expressed by States in response to the United Nations Secretary-General's request pursuant to United Nations General Assembly resolution 61/89 will advance the efforts to establish legally binding provisions controlling arms transfers and stresses its commitment to work with partners in order to conclude a comprehensive treaty, as well as ensure its appropriate implementation.

Malawi

[Original: English]
[22 April 2007]

Introduction

1. Malawi fully and strongly supports the development of an international legally binding instrument that will promote strong global controls over the import, export and transfer of all conventional arms and their ammunition. This is in line with the position that Malawi took in December 2006 by voting in favour of an arms trade treaty alongside 152 other States Members of the United Nations.

2. The proliferation of arms and ammunition fuels both civil and regional conflict, intensifies violent and organized crime, and has a significant impact on sustainable and human development, undermining social and economic development and breeding insecurity and fear. Furthermore, the continuing and easily accessible supply and misuse of arms and ammunition contributes to violations of human rights and international humanitarian law.

3. While the widespread availability of conventional arms (including small arms and light weapons) continues to have a vast impact on the African continent as a whole, the world's biggest arms producers are in non-African States. The proliferation of arms is a global problem that demands a comprehensive global response in the form of a legally binding treaty to control the arms trade.

4. Malawi, though a peaceful country, continues to experience an increase in small arms-related crime. Malawi's geographical position bordering counties that are suffering significantly under the effects of small arms and light weapons, makes it a prime target for use as a transit route for arms trafficking with a subsequent risk that arms would be diverted and remain in the country for illegal use. This means that much-needed development and poverty reduction will continue to be undermined by crime and insecurity, and the potential for violent conflict over resources will increase. Furthermore, across the Southern African subregion,

challenges exist in terms of underdevelopment, conflict, high levels of armed violence and criminal activity, exacerbated by the widespread availability of arms.

Feasibility

5. Malawi is strongly convinced that an arms trade treaty is feasible, as it:

- Draws its support and background upon existing international law;
- Will build upon existing regional and multilateral agreements on arms control;
- The vote of 153 Member States in favour of the arms trade treaty resolution (61/89) demonstrates that there clearly is strong support for an arms trade treaty.

6. An arms trade treaty would build upon existing regional and multilateral agreements and principles on the control of arms transfers. Over the past decade, a significant amount of progress has been achieved at the subregional, regional and multilateral levels to develop common standards for the regulation of arms transfers. This has covered regions including the Americas, Europe and sub-Saharan Africa.

7. In particular, in Africa there are a number of agreements that control the proliferation of small arms and light weapons (SALW). These include the South African Development Community (SADC) Protocol on the Control of Firearms, Ammunition and Other Related Materials, the Economic Community of West African States (ECOWAS) Convention on SALW, Their Ammunition and Other Related Material, and the Nairobi Protocol on the Prevention, Control and Reduction of SALW in the Great Lakes Region and Horn of Africa. As a party to the SADC Protocol, Malawi is working to prevent, combat and eradicate the illicit trafficking in firearms, ammunition and other related material within the Southern African subregion.

8. While these African and other regional agreements represent vital building blocks for a future arms trade treaty, and represent a number of shared principles, norms and best practice, they vary in application and formulation. Furthermore, many of these regional agreements are non-legally binding on States, and often contain weaknesses and loopholes that enable irresponsible and unwelcome transfers of weapons to the African continent to continue. Furthermore, there are a significant number of States that are not party to any regional or multilateral arms transfer control agreement. A global framework for arms transfer control is therefore a pressing priority.

Scope

9. While States have an inalienable right to self-defence, and thus to purchase and transfer arms, this should be in accordance with international law and standards. An arms trade treaty should not minimize or detract from this fundamental right of States but must recognize that States also have other obligations under international law with respect to their transfer of arms. These obligations should be codified within an arms trade treaty.

10. To be effective and comprehensive, the arms trade treaty should also set out clearly the types of arms to which it will be applicable. Malawi believes that an arms trade treaty should cover all conventional weapons, their munitions including

ammunition and explosives, components for such weapons and the technology specifically designed for the manufacture of such weapons.

11. Malawi also believes that an arms trade treaty should apply to the transit, trans-shipment and brokering of arms, as well as to their import, export and transfer, and should build upon the work of the current group of governmental experts on Brokering.

Draft parameters

12. Malawi strongly believes that a central tenet of the arms trade treaty must be that States ensure that all international transfers of conventional arms relevant to their jurisdiction are subjected to strict control. States are ultimately responsible for their arms transfers, and therefore the arms trade treaty should require that States must amend or enact national legislation to control the transfer of conventional weapons and take other measures to establish criminal, civil and administrative sanctions to prosecute offenders of violations of arms transfer controls, as set out in an arms trade treaty.

13. The arms trade treaty should establish minimum standards that States should have to take into account when considering whether or not to allow a transfer. Those standards should inter alia make reference to:

- Respect for international law, including the Charter of the United Nations, human rights law and international humanitarian law;
- Obligations to fully comply with arms embargoes as established by the Security Council of the United Nations;
- The impact that the transfer may have on conflict, the displacement of people, crime and the associated impact on peace, reconciliation, safety, security, stability and sustainable development;
- The prevention of diversion of arms within and from the buyer country.

14. To assist the effective implementation of an arms trade treaty, Malawi further stresses the importance of ensuring that the treaty contains strong provision for capacity-building, including the financial and technical assistance that will be required in order to enable States to implement the treaty fully and effectively. In conclusion, Malawi strongly supports the development of an arms trade treaty and believes that it is vital to the security and development of Malawi and the Southern African region.

Mali

[Original: French]
[6 July 2007]

1. In the wake of the armed conflict waged in northern Mali in 1990, the proliferation of weapons had reached disturbing proportions. It represented a real danger to the uncertain peace the country had just regained, and had to be dealt with.

2. The strategy adopted was to take steps aimed at reducing if not halting this proliferation, and recovering and destroying weapons unlawfully held by the population.

3. To that end, the authorities of Mali requested and received technical assistance from the United Nations. This resulted in the campaign against the proliferation of arms, especially small arms and light weapons (SALW), that category of arms being the easiest to transport and conceal. These are the weapons most often used in armed conflicts and violence. In that regard, former United Nations Secretary-General Kofi Annan observed that SALW take a greater toll in lives than weapons of mass destruction. For all these reasons, ECOWAS, in its moratorium and in its new Convention, was especially concerned with small arms and light weapons.

4. Mali fully supports all measures aimed at combating arms proliferation; accordingly, it supports an arms trade treaty.

5. However, Mali would wish the following considerations to be taken into account in the draft treaty:

Conventional arms trade issues

6. Requirement for an end-user certificate containing the following particulars:

(a) Description of the weapon (type or model, calibre) and quantity (in the case of batches);

(b) Contents of the marking;

(c) Name and location of old and new owners and, as the case may be, successive owners;

(d) Date of registration;

(e) Information about each transaction, i.e.:

- **Name and address of consignor, any broker, consignee and end-user;**
- **Origin, points of departure, possible transit and destination, as well as customs references and dates of departure, transit and delivery to end-user;**
- **Export, transit and import licences (quantities of batches for each licence, and validity of licence);**
- **Complete information on the carrier(s);**
- **Monitoring agency or agencies (at departure, transit and arrival points);**
- **Nature of transaction (commercial or non-commercial, private or public, weaponization, repair);**
- **As appropriate, the insurer and/or financing organization involved in the transaction.**

7. This information will serve as basic data for arms registries on a permanent basis.

Principles, guidelines and parameters that should govern the international transfer of conventional weapons

(a) Prohibition of arms transfers

- Member States should prohibit the transfer of arms to/towards and from their territory;
- Member States should prohibit, without exception, all transfers of arms to non-State actors if such transfer is not authorized by the importing Member State.

(b) Requirements for exemptions

- A Member State may apply for exemptions in legitimate cases of national defence and security, law and order, or needs relating to peacekeeping operations or other operations conducted under the auspices of the United Nations or other regional or subregional organizations of which it is a member;
- Member States must devise and maintain an efficient system for issuing licences or export and import authorizations as well as for international transit of arms;
- Each Member State must take the necessary steps to ensure that procedures for granting licences or authorizations are reliable and that the authenticity of licences or authorizations can be verified and confirmed.

(c) Need for exemption procedures

- An umbrella structure for the management of arms import, export and transfer authorizations will be necessary.

(d) Rejection of arms transfer requests

A transfer will not be authorized if:

- The export, import, transit, trans-shipment or brokerage authorization was not provided by all States directly concerned by the transfer;
- The arms have not been marked.

8. A transfer will not be authorized if such authorization violates the obligations of the requesting State and those of Member States under international law, including:

- Obligations under the United Nations Charter: binding resolutions of the Security Council, such as those imposing arms embargoes; prohibition of the use or threat of force; prohibition of interference in the internal affairs of another State;
- Universally accepted principles of international humanitarian law;
- Any other treaty or decision binding on Member States.

9. A transfer will not be authorized if the arms are intended to be used:

- To contravene international humanitarian law, or to violate the rights and freedoms of persons and populations, or for purposes of oppression;

- To perpetrate serious violations of international humanitarian law, genocide, or crimes against humanity;
- To aggravate the domestic situation within the country of final destination, so as to provoke or prolong armed conflicts, or by aggravating existing tensions;
- To commit terrorist acts or in furtherance of terrorism;
- For purposes other than legitimate defence and security needs in the recipient country.

10. A transfer will not be authorized if:

- It is intended to be used to commit violent or organized crime or to facilitate the perpetration of such crimes;
- It is intended to be used to affect regional security, to endanger peace, to contribute to destabilization or uncontrolled accumulation of weapons or military capacities in a region, or to foster regional instability;
- It is intended to be used to prevent or hamper sustainable development and unduly divert human and economic resources to arming the States involved in the transfer;
- It involves corrupt practices at any stage of the transfer whatsoever.

11. A transfer will not be authorized if the arms are at risk of being diverted in the country of transit or the country of import to an unauthorized use or unauthorized users, or to illicit trade, or to re-export.

Other elements

12. For purposes of legal enforcement it would be desirable to provide for sanctions against Member States which violate the treaty.

Malta

[Original: English]
[20 April 2007]

Introduction

1. Malta fully supports the arms trade treaty initiative and indeed was among the first group of countries that supported this initiative. Malta was also one of those States Members of the United Nations that sponsored General Assembly resolution 61/89.

2. In this context it is appropriate to recall that in 1965 Malta proposed, at the twentieth session of the United Nations General Assembly, the establishment of a system of publicity through the United Nations of transfers between States, whether by way of trade or otherwise, of arms, ammunition and implements of war. Sixteen years later, the General Assembly established a universal and non-discriminatory register of international conventional arms transfers. Today, the register can be viewed as another important instrument in arms limitation and disarmament and as a deterrent in the illicit traffic in arms. Malta therefore strongly supports and believes that an arms trade treaty would strengthen and complement the United Nations

Register of Conventional Arms through the adoption of a universal and legally binding instrument on the trade in conventional arms.

3. It is also to be recalled that in their Final Communiqué, the Commonwealth Heads of Government, at their Meeting in Malta in November 2006, endorsed this initiative. Malta, which currently occupies the Chairmanship of the Commonwealth, feels also that this initiative is very important especially for small countries which do not produce, manufacture or export arms.

4. Malta does not manufacture or trade either in small weapons and light arms (SALWs) or in conventional arms. As a country which is a State party to the absolute majority of international conventions and protocols on disarmament and non-proliferation, successive Maltese Governments have continued to give their full support to international and regional initiatives pertaining to the adoption of new measures to curb illicit trade, manufacture and transfers in arms and to control the production, trade accumulation and use of small arms and light weapons. The illicit manufacture, transfer and circulation of small arms and light weapons and their excessive accumulation and uncontrolled spread remains a major concern for Malta.

5. Malta has taken measures to ensure that its export controls conform to international export control regimes and to international obligations and responsibilities derived from membership of the United Nations, the European Union and the Organization for Security and Cooperation in Europe. Malta is a member State of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. Malta places great emphasis on information exchange both at the national and international levels between national and international authorities so as to facilitate intelligence gathering on trade in SALWs.

6. The Government of Malta is committed to a policy not to manufacture arms or any other weapons. Under current Maltese legislation, the import, export and transit and trans-shipment of small arms and light weapons are subject to import and export licences in accordance with the Importation Control Regulations (Legal Notice 242 of 2004) as amended by Legal Notices 341 of 2004 and 230 of 2005 and the Military Equipment (Export Control) Regulations (Legal Notice 269 of 2001).

7. Brokering activities carried out by Maltese nationals related to the transfer of arms and weapons between any country (including Malta) and any other country are controlled by the Military Equipment (Export Controls) (Amendment) Regulations (Legal Notice 376 of 2003). The national list of conventional arms and weapons which are subject to export controls is identical to the Common Military List of the European Union. In addition to the Military Equipment (Export Control) Regulations, Malta has transposed EU regulation 1334/2000 setting up the community regime for the control of exports of dual-use items and technology into Maltese legislation, i.e. the Dual-use (Export Control) Regulations. Apart from controlling local exports these regulations also provide for control over goods in transit and trans-shipment. Malta believes it would be appropriate for the group of governmental experts to take into consideration, in some detail, coverage of dual-use items pertinent to certain arms, munitions and production technology.

8. On 1 January 2002, Malta aligned itself with the EU Code of Conduct on Arms Exports. On 1 May 2004, the Firearms and Ammunition (Movement in Member States and other Matters) Regulations (Legal Notice 56 of 2004) entered into force

to regulate the transfer of arms and ammunition between Member States of the European Union.

9. Malta, therefore stands ready to work with other States Members of the United Nations towards an arms trade treaty and to establish common international standards for the import, export and transfer of conventional arms with a transparent monitoring and enforcement mechanism. As recognized in the ninth preambular paragraph of General Assembly resolution 61/89, "the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development".

10. Malta looks forward to the work of the group of governmental experts to be established by the United Nations Secretary-General with the mandate to examine, commencing in 2008, the feasibility, scope and draft parameters for a comprehensive, legally binding instrument of an arms trade treaty. Malta also intends to participate in the consideration of the report of the group of experts at the sixty-third session of the General Assembly.

11. In this regard, Malta would furthermore emphasize the importance of ensuring the ownership of this initiative by all the States Members of the United Nations through appropriate open-ended consultations and even participation during the process leading to the adoption of an arms trade treaty.

Feasibility

12. The overwhelming membership of the United Nations which sponsored, co-sponsored and supported General Assembly resolution 61/89 is in itself a tangible proof that the majority of countries believe in the feasibility of achieving a legally binding arms trade treaty. The adoption of resolution 61/89 by the General Assembly revealed a very significant mass of States from all regions of the world willing to take the first steps towards a legally binding arms trade treaty.

13. As indicated above, the United Nations Register of Conventional Arms has withstood the test of time. Member States have acknowledged that the Register has contributed greatly to confidence-building and security among States and that it continues to constitute an important step forward in the promotion of transparency in military matters. The voluntary nature of this mechanism and its success now necessitate that the United Nations membership take a bolder step in crafting a new instrument that would take Member States beyond the voluntary nature of the Register towards solid and legally binding norms, thus enhancing transparency and confidence- and security-building measures in the armaments field.

International instruments

14. It is an acknowledged fact that negotiations on an arms trade treaty have the benefit of already proven international, regional and subregional treaties, conventions and other legally binding instruments. Moreover, fundamental principles are already included in customary international law and existing international instruments such as, among others:

- The Charter of the United Nations (and associated Security Council resolutions controlling and prohibiting arms transfers);

• Common article 1 of the Geneva Conventions;

• United Nations Security Council resolutions on arms embargoes;

• The United Nations Register of Conventional Arms;

• The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effect;

• The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

15. There are also very relevant political guidelines:

• The 1991 P5 Guidelines for Conventional Arms Transfers;

• The 1996 United Nations Guidelines for International Arms Transfers;

• The 2001 United Nations Programme of Action on Small Arms and Light Weapons, including specifically section II, paragraph 2.

16. There are a growing number of other regional agreements relevant to arms trade including:

• The 1993 OSCE Principles Governing Conventional Arms Transfers;

• The adoption of politically binding rules such as those set out in the 1998 European Code of Conduct on Arms Exports;

• The 2000 OSCE Best Practice Guidelines on Small Arms and Light Weapons;

• The 2001 Protocol on the control of firearms, ammunition and other related materials in the Southern African Development Community (SADC);

• The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, in particular the 2002 Best Practice Guidelines for Exports of Small Arms and Light Weapons and the 2003 Elements for Export Controls of Man-Portable Air Defence Systems;

• The 2005 Nairobi Protocol and Best Practice Guidelines on Small Arms and Light Weapons;

• The 2005 Central American Integration System (SICA) Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Material;

• The 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons.

Scope

17. The agreed scope of an arms trade treaty depends on the items and transfers to be covered in a future instrument. Malta feels that it would be preferable and commendable that transfers were to be based on the criteria established in the EU Code of Conduct on Arms namely:

• That transfers do not provoke or exacerbate conflicts;

• Do not aid the commission of human rights abuses or of serious violations of international humanitarian law;

- **Do not undermine sustainable development;**
- **Nor allow arms to flow from the legitimate to the illicit market.**

18. The arms trade treaty should cover all conventional weapons, including ammunition such as battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, small arms and light weapons, including man-portable air defence systems as well as components and technology specifically designed for the manufacture of such weapons.

19. A detailed list of the agreed items should be annexed to the treaty in order to avoid ambiguities and could be based on those, for example, in the Wassenaar Munitions List. The range of transfers to be covered by an instrument will also have to be clearly defined. The resolution refers to import, export and transfers. An instrument will have to make clear what is meant by these items (making reference to existing norms). It could also cover other activities, including brokering, transit and trans-shipment, loans, gifts and temporary imports/exports for demonstration or exhibition.

20. Malta believes that an arms trade treaty should in the first place be confined to transfers which will involve arms or related technology moving from the territory of one State to that of another State, including Government-to-Government or State-to-State transfer. An instrument should not cover transfers within a State. It should not impose restrictions on how arms may be acquired, held or used within a State's territory. And it should not place overly burdensome controls on the movement of privately owned antique or sporting firearms for sporting or cultural purposes. However, such a treaty should set out the issues which States must consider before deciding whether to permit a transfer, including the eventual use of the item in question. The proposed instrument should reaffirm the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations, as well as the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs and in order to participate in peace support operations.

Parameters

21. The principles or criteria outlining the conditions under which arms transfers should or should not be allowed are to form the central elements of a comprehensive arms trade treaty. As a minimum, the following issues should be considered:

- **Respect for international obligations of States Members of the United Nations;**
- **Respect for international humanitarian or human rights law;**
- **The promotion of sustainable development;**
- **The maintenance of international and regional peace, security and stability;**
- **The prevention of diversion of arms;**
- **The prevention of internal and regional conflicts or terrorist acts.**

22. The instrument should also reaffirm the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter as well as the right of all States to manufacture, import, export, transfer and retain

conventional arms for self-defence and security needs and in order to participate in peace support operations.

23. There has to be also in place an adequate information-sharing mechanism that will ensure a transparent application of the instrument, involving approved transactions and also denied transfers where possible. An international registry to complement the United Nations Register of Conventional Arms could be set up to collect national annual reports and compile an international annual report. Provisions could also be envisaged for a feasible monitoring and enforcement mechanism.

24. Since the treaty is to be universally applied, adequate provisions for international cooperation and assistance will need to be devised. In this context, it is also important that States, particularly small States, which do not have the capacity, both human and financial, to carry out the provisions of a future arms trade treaty, are given the necessary support by those countries which are in a position to do so.

Mexico

[Original: Spanish]
[30 April 2007]

Feasibility

1. Mexico considers that illicit trafficking and irresponsible trade in arms in the world are a threat to international peace and security, a source of destabilization, and a factor that contributes to organized crime and endangers the national and international rule of law. For these reasons, we consider that States should establish controls over the arms trade as a matter of priority.

2. Mexico favours the negotiation of a legally binding instrument within the multilateral framework of the United Nations, in which the positions of importing and exporting States can be considered, thereby allowing objective, non-discriminatory and transparent criteria to be adopted for the arms trade.

3. Mexico considers the adoption of a legally binding instrument on the arms trade to be feasible in the light of the growing concern of States over the implications and impact of such trade and of the trend towards the development of instruments to address this issue.

4. As diverse in nature as they may be, the existing instruments reflect the aim and intention of the international community to regulate and establish controls over the arms trade. Among the main examples of such instruments, we note the following:

- The Security Council, acting under Chapter VII of the Charter of the United Nations, sets up sanctions committees which restrict or prohibit the sale or supply of arms, ammunition, military equipment, technology, assistance or training to particular countries, military forces, entities or persons, for the purpose of maintaining international peace and security.
- With regard to instruments whose purpose is to prevent, combat or eradicate illicit trade in small arms and light weapons, efforts have been undertaken to outline systems to monitor the export, import and circulation of weapons, such as those provided for by the Protocol against the Illicit Manufacturing of and

Trafficking in Firearms, Their Parts and Components and Ammunition; the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosive and Other Related Materials; the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects; and efforts have also been made in respect of legislative harmonization at regional level, like the Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components and Ammunition proposed by the Organization of American States.

- **States have negotiated treaties that have established total prohibitions on trade in certain types of arms considered to be excessively injurious or contrary to international humanitarian law. Examples include the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects, together with its five Protocols, namely, Protocol I on Non-detectable Fragments, Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices, as amended on 3 May 1996, Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons, Protocol IV on Blinding Laser Weapons, Protocol V on Explosive Remnants of War; and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction.**

5. All these examples are isolated efforts. Each one establishes different levels of obligation, refers to different types of arms, circumstances or subjects and sometimes covers different regions of the world. The international community has not so far managed to come up with an effective universal system for monitoring the transfer of weapons.

6. Mexico notes the need for a comprehensive instrument that will fill the gap in the international legal order.

Scope

Nature

7. Mexico considers that one way of strengthening the rule of law is to agree between States on legally binding instruments that seek to ensure the highest possible level of compliance.

8. In addition, the treaty should rely on the commitment of States to carry out legislative, administrative and any other reforms required to guarantee fulfilment of the obligations assumed by States in their respective territories and by their respective nationals.

9. The creation of such a set of obligations for States and individuals through domestic legislation may largely contribute to preventing illicit trafficking in and irresponsible sales of arms.

Purpose

- **The aim of a legally binding instrument to regulate the arms trade must be to prevent illicit trafficking in and irresponsible sales of arms.**

- The main criteria to be considered by a State for authorizing a transfer are: that human rights and international humanitarian law are respected, in accordance with the provisions, instruments and mechanisms that underpin the international legal order; that the transfers take into account the relevant United Nations resolutions on international peace and security; that they are in line with and support embargoes and restrictions on the arms trade established by the United Nations Security Council; that steps are taken to prevent the weapons from being diverted to the illegal market.

- To guarantee the objective, transparent and non-discriminatory application of these criteria, the formal mechanisms existing at the multilateral level for each of the aforementioned subjects must be involved in processes of deliberation on the authorization of transfers.

- The instrument must also safeguard the legitimate right of States to guarantee their defence and security.

Physical scope

- It is important that the group of governmental experts set up to examine the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms pay special attention to developing the broadest possible concept of transfer in order to cover all aspects of the arms trade. In other words, the aim will be to find a concept that encompasses export, import, sale, donation, rental, conveyance, trans-shipment, loan and transfer between States and between individuals.

10. In some cases the term "actual delivery" has been used to denote any transfer of the main conventional arms, irrespective of the mechanism whereby it takes place (commercial sale, third-party sale, donation, assignment, etc.).[8]

- We recommend that account be taken of the content of the report of the group of governmental experts to consider further steps to enhance international cooperation in preventing, combating and eradicating illicit brokering in small arms and light weapons (working group on brokering), to be submitted to the General Assembly at its sixty-second session.

- The instrument must cover all types of conventional arms, their ammunition, parts and components. Mexico will be particularly in favour of the inclusion in the treaty of what are known as small arms and light weapons, in that their characteristics make them especially susceptible to illicit or irresponsible trade.

11. To achieve the expected results through this major effort undertaken by States, it will be essential that ammunition, parts and components of weapons be included in the treaty and that they be governed by the same parameters and commercial controls.

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[8] The Stockholm International Peace Research Institute (SIPRI) uses the term "actual delivery".

Monitoring and dispute settlement mechanisms

12. It will be important for the treaty to be provided with effective monitoring mechanisms that help to prevent possible misappropriations of weapons and serve to promote transparency in the buying and selling of conventional arms. For implementation of recommendations concerning the settlement of disputes arising from non-compliance with the provisions of the instrument, we recommend that the group of experts take into account the United Nations handbook *Final Clauses of Multilateral Treaties*, Section C "Settlement of Disputes".

Parameters

13. For Mexico it is important to distinguish between parameters for negotiation and parameters for the instrument. With regard to the parameters for negotiation, Mexico will consider it essential that due geographical representation be observed, so as to take into account the views of the greatest possible number of States and regions.

14. Concerning parameters for the instrument, Mexico deems it of the utmost importance to take into consideration all the standards contained in relevant existing legal instruments and to see to it that the agreed commitments maintain or raise established standards.

Montenegro

[Original: English]
[12 July 2007]

Introduction

1. On 6 December 2006, the Government of Montenegro, along with 152 other States, voted in favour of an arms trade treaty. Montenegro is a strong supporter of a comprehensive international legally binding instrument which will promote the legal and responsible control of imports, exports and transfers for all conventional arms and ammunition. As such, Montenegro is pleased to be able to take this opportunity to present its views to the Secretary-General on the feasibility, scope and draft parameters for a legally binding arms trade treaty.

2. The proliferation of conventional arms and their ammunition have consistently been the means of fuelling both internal and regional conflicts across the globe. The illicit trade has increased the effects of violent and organized crime and has had a significant impact on development by breeding insecurity and fear. The continuing and easily accessible supply and misuse of arms and ammunition contributes to violations of human rights and international humanitarian law. The complex networks, diverse players and immense impact on economies and societies around the world render this issue important enough to be specifically identified and targeted for control and possible elimination through the achievement of a global legally binding treaty.

Feasibility

3. Montenegro strongly believes that an arms trade treaty would be feasible, as there is clearly broad support from the 153 States Members of the United Nations that voted in favour of General Assembly resolution 61/89 to take this initiative

forward. Furthermore, well over half of Member States are already a party to some kind of regional or multilateral agreement. But most importantly, an arms trade treaty would be feasible as it would draw upon States' existing responsibilities already established in international law.

4. There are numerous international legal instruments currently in place which identify obligations that Member States are bound to respect with regard to arms transfers. These include Security Council embargoes, the Charter of the United Nations, the United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, the Convention on the Prohibition of Anti-Personnel Mines, just to name a few. An arms trade treaty would effectively codify these already established principles and responsibilities into one global agreement.

5. Furthermore, an arms trade treaty would build upon regional and multilateral arms transfer principles which are currently established. In particular, Montenegro has aligned itself with the EU Code of Conduct and participates in the OSCE, thereby agreeing to develop norms, principles and measures covering all export controls and transparency. However, European initiatives are not the only regional and multilateral arms transfer principles which an arms trade treaty should build upon. Other examples of regional agreements include the 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons, their Ammunition and Other Related Material, the Central American Integration System (SICA) Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Material, the 2005 Best Practice Guidelines associated with the Nairobi Protocol on SALW, the 1997 Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA).

6. While the principles and criteria set out in regional and multilateral agreements are vital to building a comprehensive and legally binding arms trade treaty, and represent shared principles, they vary in application and formulation. While many agreements are fairly comprehensive, many of them vary in scope and are not legally binding on Member States. For example, some regional agreements include only small arms and light weapons (SALW) rather than all conventional arms and their ammunition, and many do not cover all transfers of arms, such as transit and trans-shipment, and brokering. Such noticeably differing standards across these regions means that there are a number of loopholes and weaknesses which unscrupulous arms dealers can exploit and further add to the growing proliferation of illicit arms across the globe. Furthermore, there are a significant number of States that are not party to any regional or multilateral arms transfer control agreement. A global framework for arms transfer control is therefore a pressing priority.

Scope

7. While States have the right to acquire conventional arms for legitimate self-defence and law enforcement, those needs should be in accordance with the responsibilities of Member States as set out in international law. Thus, the scope of an arms trade treaty should be to identify and codify the core responsibilities and obligations to which States are party.

8. To be fully comprehensive, the arms trade treaty should outline which arms will be covered under the treaty. Montenegro is of the view that for an arms trade treaty to be fully effective, it should include all conventional arms, including:

- **Battle tanks;**
- **Armoured combat vehicles;**
- **Large-calibre artillery systems;**
- **Combat aircraft;**
- **Attack helicopters;**
- **Warships;**
- **Missiles and missile launchers;**
- **Small arms and light weapons (SALW), including man-portable air defence systems (MANPADS);**
- **Landmines;**
- **Munitions, including SALW ammunition and explosives;**
- **Components for such weapons;**
- **Technology specifically designed for the manufacture of such weapons.**

9. In order to preserve clarity among all Member States and those in the defence industry, an arms trade treaty should spell out in a detailed list the equipment which it covers. However, there should be scope for Member States to amend the munitions list as and when new technology is developed.

10. Montenegro is of the view that for an arms trade treaty to prevent the circumvention of current transfer controls by those exploiting loopholes and weaknesses, an arms trade treaty should have as broad an approach as possible and cover:

- **Imports;**
- **Exports;**
- **Transit and trans-shipment;**
- **Brokering.**

Draft parameters

11. Montenegro strongly believes that an arms trade treaty must require all Member States to establish in their own jurisdiction strict controls over international transfers of conventional arms, including measures to put in place criminal, civil and/or administrative sanctions to prosecute violations of arms transfer controls, as set out by an arms trade treaty. National legislation should require that a competent body of the national Government be established to assess on a case-by-case basis transfer licence applications. States are ultimately responsible for their arms transfers and therefore the arms trade treaty should require that States must amend or enact national legislation to control the transfer of conventional weapons.

12. Key elements of an arms trade treaty will be to establish legally binding international standards or criteria which Member States agree to follow. As mentioned above, these should effectively codify current international law commitments and responsibilities which Member States have already signed up to, including:

- The Charter of the United Nations;
- Binding resolutions of the Security Council, including full compliance with arms embargoes;
- The prohibition on the threat of use of force;
- The prohibition on intervention in the internal affairs of another State;
- The 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its Protocols;
- The 1997 Convention on the Prohibition of Anti-Personnel Mines;
- Universally accepted principles of international humanitarian law, including the prohibition on the use of arms that are of a nature to cause superfluous injury or unnecessary suffering, and the prohibition on weapons or munitions incapable of distinguishing between combatants and civilians;
- Gross violations of human rights law;
- Acts of genocide or crimes against humanity;
- The 2001 International Law Commission articles on responsibility of States for internationally wrongful acts.

13. Furthermore, the arms trade treaty should establish standards and criteria to consider the impact that the transfer may have on conflict, the displacement of people and crime, and the associated impact on peace, reconciliation, safety, security, stability and sustainable development, as well as the prevention of diversion of arms within and from the buyer country.

Morocco

[Original: French]
[9 May 2007]

1. Inclusion in the preamble of the future treaty of references to other relevant instruments and mechanisms as elements to complement the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons adopted in 2001:

- Compliance by States parties with the obligations under the international instrument for the identification and tracing of small arms adopted in June 2005;
- Development of a new legally binding international instrument on small arms brokering and, in the meanwhile, enforcement of national controls on arms brokers;

- **Compliance by States Members of the United Nations with embargoes imposed by the United Nations;**
- **Strengthening of regional initiatives such as those of the States members of the Arab League and European Union for the implementation of the 2001 Programme of Action on the Illicit Trade in Small Arms and Light Weapons.**

Aspects of the arms trade

- **Development of a comprehensive regulatory framework and criteria for authorized arms transfers;**
- **Subjection of conventional arms in the broadest category of military products to specific regulation;**
- **The scope of the future treaty should include the inalienable right to self-defence in the event of attack in accordance with international law and the Charter of the United Nations, as well as the recognized right of all States to acquire weapons in accordance with international law and standards for the purpose of national security and defence;**
- **Establishment of a clear distinction between the legal arms trade, to which Governments have a right, and the illicit trade in these arms, the prohibition of which must be expressly stated and strengthened by education programmes aimed at reducing both the illicit trade in and the misuse of these arms among civilian populations;**
- **Development by the United Nations of a list of countries and types of arms and ammunition subject to international control.**

Principles, guidelines and parameters for the transfer and international monitoring of small arms

- **Introduction of a licensing system for all conventional arms transfers;**
- **Integration of compliance with international humanitarian law into national legislation and international standards as basic criteria for the review of decisions on arms transfers;**
- **Setting of minimal standards as a basis for control mechanisms for various forms of international transfer of conventional weapons;**
- **Adoption by the signatories of the future treaty of national laws establishing specific control mechanisms;**
- **Establishment nationally and internationally of monitoring mechanisms to detect illegal transfers of small arms, including appropriate penalties for any violation of this treaty;**
- **Adoption of an international stamping or laser marking system for new arms which would apply to small-arms-producing countries.**

Other relevant elements which should be included in the future treaty

- **Subjection of private actors engaged in arms transfers to international legal control;**

- Consolidation of information sharing and international cooperation among States;
- Capacity-building of armed forces and police for arms stockpile management in the areas of physical security, record keeping and inventory management and staff training;
- Integration of control measures and the right to use conventional weapons within the framework of efforts to prevent arms from being diverted to terrorist groups;
- Commitment by countries to refrain from using conventional weapons against the territorial integrity of States;
- The import, export, possession, transit, trans-shipment, manufacture, diversion, brokering, sale, transport and ferrying of conventional weapons of all kinds, whether heavy or light or for security or law enforcement purposes, as well as their parts and ammunition, including explosives;
- Technologies used for the manufacture of conventional weapons;
- Training, documentation and means of data communication relating to the manufacture of conventional weapons.

International cooperation and assistance

- Development of cross-border cooperation to limit traffic in small arms;
- More effective control over arms movements through the establishment of control mechanisms at borders;
- Strengthening and harmonization of legislation and controls of countries in the same region;
- Provision of the necessary resources for law enforcement forces, including capacity-building (police, armies, intelligence services and customs) to ensure security in countries in conflict and to combat the supply of arms to terrorist networks;
- Firm commitment of the international community to the process of disarmament, demobilization and reintegration;
- Strengthening of international partnership, by involving the donor community and producing countries in channelling resources for the implementation of cooperation and assistance programmes to curb arms trafficking.

Netherlands

[Original: English]
[30 April 2007]

Introduction

1. The Netherlands, one of the co-sponsors of General Assembly resolution 61/89, strongly supports a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms. The Netherlands is of the opinion that responsible arms trade is a

legitimate part of international trade relations and can play an important role in ensuring, promoting and maintaining international peace and security. However it is also clear that the arms trade is a relevant factor in possible threats to peace, security, stability and the violation of international law, including human rights law and humanitarian law. It is in the interest of each national State and in the interest of world security that international trade in conventional arms be submitted to a comprehensive international instrument containing common, minimum standards for transfers of conventional arms.

2. Although genuine efforts have already been made to elaborate general norms for transfers of arms, existing mechanisms at the international, regional and subregional levels form a patchwork, covering different regions, different aspects and with only partially overlapping memberships. Given that these agreements vary in their formulation and application it is important to ensure that an international instrument clearly sets out the full scope of States' existing responsibilities under international law and standards. The basis for an arms trade treaty should be derived from the highest standards contained in these agreements, not the lowest common denominator.

3. The specific purpose of an arms trade treaty is to establish clear common standards for national controls of the international trade in conventional arms. These standards should include adherence to commitments under international humanitarian law and customary international law. The legally binding instrument should oblige States to adopt and implement national legislation in order to prevent transfers of conventional arms from, directly or indirectly, provoking, prolonging or exacerbating conflicts or being otherwise detrimental to human rights, security, stability or development, as detailed in paragraph 13 below.

4. The instrument should not prevent States from participating in responsible international trade in conventional arms, for instance in order to meet their legitimate defence and security needs, or to assist in international peacekeeping operations. Parties to a future arms trade treaty must respect each other's security concerns and should not use (or abuse) an arms trade treaty to interfere with those concerns.

Feasibility

5. The Netherlands believes that, given the overwhelming support for General Assembly resolution 61/89, there is a realistic prospect that such a process will succeed. The Netherlands would welcome a quick and effective process, leading to an instrument in a few years from now.

6. A second element that enhances the feasibility of an arms trade treaty is that civil society organizations and the defence industry in many nations are supportive of this initiative.

7. Thirdly, a large number of States Members of the United Nations already participate in relevant initiatives and mechanisms at international, regional and subregional levels. In view of the already significant number of widely shared principles, norms and best practices stemming from these initiatives and mechanisms, the Netherlands is convinced that a solid foundation for agreeing on common international standards exists, on which Member States can successfully build further.

8. The Netherlands is confident that a framework for assistance will be helpful in assisting States to implement an eventual instrument, which would increase its effectiveness. The feasibility of an arms trade treaty must not suffer from too many additional reporting and meeting requirements; such requirements should remain limited to what is strictly necessary, and should adhere as closely as possible to existing formats and structures.

Scope

9. United Nations General Assembly resolution 61/89 refers to the import, export and transfer of conventional arms. The Netherlands is of the opinion that an instrument should cover all transfers — tangible and intangible — including export, import, brokering, transit and trans-shipment, loans, gifts and temporary exports for peacekeeping operations, demonstrations or exhibitions. Furthermore, in defining transfers, the Netherlands is of the view that a future arms trade treaty should be confined to transboundary transfers, such as the movement of defined items from the territory of one State to another State. However, property transfers from Government to Government, whereby the items remain on the territory of one State, should be covered. Such a situation may arise after the temporary stationing of forces or after a peace operation, or in the form of abandoned explosive ordnance.

10. In the view of the Netherlands, an arms trade treaty should apply to the following items: all conventional arms including weapon platforms, heavy weapons, small arms and light weapons, parts and components of the above-mentioned, munitions including ammunition and explosives, technology used for manufacturing conventional arms, weapons used for internal security and dual-use goods intended for military or policing purposes. The arms trade treaty should also be applicable to licences for overseas production of these items.

11. Drafting clear lists of items covered by the arms trade treaty would be beneficial. The arms trade treaty could draw from existing instruments such as the United Nations Register of Conventional Arms, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, the Wassenaar Arrangement Munitions List, or the Common Military List of Equipment covered by the European Union Code of Conduct on Arms Exports. The Netherlands would not favour including too detailed descriptions of the items (e.g. models, brands) in these lists as this would require frequent updating.

Draft parameters

12. From the Netherlands' perspective, the three key elements of an arms trade treaty will be an agreement (1) on establishing legally binding international arms transfer standards (or criteria) which States agree to apply, (2) on an effective information exchange, monitoring and evaluation mechanism and (3) on an adequate framework for cooperation and assistance.

Legally binding standards

13. The Netherlands is of the opinion that a future arms trade treaty should establish that a State, when assessing on a case by case basis whether or not to

approve an arms export transaction, should consider whether the proposed transfer will or will likely be used:

- **To violate any international or regional commitment, including breaches of the Charter of the United Nations and/or Security Council resolutions and/or rules of customary law relating to the use of force (and thus breach international law);**

- **To commit serious violations of international human rights law as set out in numerous human rights instruments;**

- **To commit serious violations of international humanitarian law, such as acts of genocide and crimes against humanity, or when the transfer involves arms that are forbidden by, or contrary to international humanitarian law;**

- **To undermine the establishment and maintenance of international peace, security and stability.**

14. Other factors to be taken into account are whether the transferred arms will or will likely be used to provoke, prolong or exacerbate internal or regional conflict; to destabilize countries or regions; to seriously undermine the economy or hamper the — sustainable — development of the importing State; to further terrorist acts; to commit violent crimes or be used in organized crime; or whether the arms will or will likely be diverted towards one of the above uses, or when the transfer involves corrupt practices.

15. It is clear that the criteria in paragraphs 13 and 14 above differ in nature and have varying legal foundations. In a treaty text these criteria should be dealt with separately on the basis of, e.g., their different status within international law while setting criteria for (1) express prohibitions where no transfers are allowed, (2) prohibitions on transfers based on the likely use of the transferred arms and (3) other factors that must be taken into account.

16. Express limitations should include those which set out clear prohibitions on the transfer of arms including:

- **Obligations under the Charter of the United Nations, including United Nations Security Council binding resolutions and the prohibition on the threat or use of force;**

- **Prohibitions on arms transfers that arise from particular treaties to which a State is a party;**

- **Obligations under international humanitarian law arising out of customary international law and treaty law, such as the Geneva Conventions and their additional Protocols and other relevant treaties;**

- **Any other treaty or decision by which a State is bound.**

17. In this context, an arms trade treaty should require that any arms export to any private end-user (i.e. all non-governmental end-users such as private individuals, traders, brokers, private associations, organizations, companies and other actors) receives extra scrutiny, e.g. proof of the formal approval of the State in whose territory such an end-user is located.

18. A future arms trade treaty should oblige States to adopt and implement national legislation that provides the legal means to include the above criteria in the

licensing process for the export of conventional arms, or to include these criteria in existing legislation. In each of these cases, unless a State is satisfied that there is no indication that a potential transfer would breach international commitments or any of the conditions set out above, the State should be required to refuse an export licence.

19. An arms trade treaty should also oblige States to make the unlicensed export of conventional arms a punishable offence under national criminal law, where special attention should be given to grave breaches of the arms trade treaty which should be made punishable in proportion. As an inherent part of this system, a framework for international mutual legal assistance in criminal matters should be included in the arms trade treaty.

20. A comprehensive international instrument on arms trade should also address the issue of control and monitoring of the items while being transferred, until the end-use destination is reached. It should also include an effective enforcement mechanism.

Information exchange, monitoring and evaluation

21. To ensure that the treaty becomes an effective instrument, information exchange and transparency in the application of the standards stipulated by the arms trade treaty is vital. States parties should report relevant, accurate and timely information.

22. The information to be shared could build on the example of the United Nations Register of Conventional Arms. Ideally, the information to be reported should also include notifications of transfer licences refused by a State party. Such a mechanism would contribute to a common understanding of how to apply the standards set out by the arms trade treaty.

23. There should also be a practical and non-disruptive monitoring mechanism in order to keep track of the results achieved by the arms trade treaty. The Netherlands expects that States parties will regularly evaluate the scope and implementation of the treaty. Further consideration should be given to the matter of how to address possible violations of the treaty obligations.

Cooperation and assistance

24. Monitoring the implementation of the arms trade treaty could be matched by a mechanism to assist State parties in understanding the commitments under the treaty and capacity-building to implement these commitments effectively. Assistance could be provided by States parties on a bilateral basis, or through joint efforts.

Conclusion

25. Finally, future arms trade treaty negotiations should play a role in consolidating various existing and developing instruments, the ultimate goal of which could be to "put them all under one roof". One could think of the United Nations Programme of Action, the instrument for marking and tracing SALW, the result of the group of governmental experts on brokering and the United Nations Register of Conventional Arms. The Netherlands realizes this is a distant objective, but future arms trade treaty negotiations could provide a first step.

New Zealand

[Original: English]
[30 April 2007]

Introduction

1. New Zealand is a strong supporter of the arms trade treaty initiative, having been an early co-sponsor of United Nations General Assembly resolution 61/89.

2. New Zealand believes that there is a growing need to consolidate into a single comprehensive legally binding instrument pre-existing controls over the international arms trade, both legally and non-legally binding. A global instrument that establishes robust and transparent norms in tackling the illicit and poorly regulated trade in conventional weapons will remove any present uncertainties and inconsistencies that might currently surround States' commitments in this field.

3. It is crucial for an arms trade treaty to set the highest standards that represent a strengthening, as opposed to a watering down, of existing arms transfers commitments. This must, however, be balanced against the need for a treaty not to impinge on the inherent right of all States to self-defence in accordance with Article 51 of the Charter of the United Nations, or curtail the right of all States to manufacture, transfer, import and export, and retain conventional arms for legitimate security and self-defence. The objectives of such a treaty must therefore be clear and unambiguous.

Feasibility

4. At a practical level, there is already a draft of international and regional instruments, both legally and non-legally binding, that provide a foundation for work on an arms trade treaty to proceed. An arms trade treaty should benefit from these previously agreed treaties and arrangements. Particularly relevant instruments for New Zealand include the Charter of the United Nations (and United Nations Security Council resolutions), the United Nations Programme of Action on Small Arms and Light Weapons and the Wassenaar Arrangement's 2002 Best Practice Guidelines for Exports of Small Arms and Light Weapons.

5. Discussion on an arms trade treaty will enable States to look afresh at what aspects of the international arms trade are already covered (and determine whether any updating is required), as well as identify gaps and emerging issues that such a treaty should also look to address.

6. One of the obstacles confronting the development of an arms trade treaty is the fact that States' subscription to, and compliance with, existing agreements and arrangements on conventional arms trade is uneven and inconsistent. States need to be encouraged to be ambitious in their expectations of an arms trade treaty which works in their broader interests for peace and security.

Scope

7. To the extent possible, an arms trade treaty should capture all conventional arms with minimal exclusions. Any such exclusion should be clearly defined. A treaty should also consider carefully the case for extending its coverage to the munitions for these weapons, as well as technology upon which the capability of the particular weapon depends. The United Nations Register of Conventional Arms

provides a useful starting point in terms of the (military) items that might be covered. Whatever list is agreed upon, it must allow for the possibility of easy updating, taking into account new developments in technology. The list should also be made as widely available as possible to all relevant stakeholders, as well as being internally coherent and easily understood. Finally, the list must be consistent with current international law that already bans or restricts the use of certain types of conventional weapons e.g. anti-personnel landmines.

8. The range of transfers that an arms trade treaty should cover must also be comprehensive and clearly defined. New Zealand believes that an instrument should apply not only to the import, export and transfer of arms, but also address other activities such as transit and trans-shipment, and brokering. It would be crucial to ensure that no opportunities are provided to States/weapons manufacturers/arms dealers to exploit loopholes that might enable arms to be traded illegally. However, it is equally important that clearly legitimate, "low risk" activities e.g. transfers of sporting rifles for legitimate purposes, are not made subject to additional, more onerous restrictions that do not represent an improvement on existing controls.

Parameters

9. An arms trade treaty should codify and consolidate in a single instrument existing commitments, international legal obligations and best practices on arms transfers. New Zealand believes that discussions on an arms trade treaty must play close attention to defining the set of conditions whereby States are obliged to withhold their approval for a particular arms transfer. Such conditions would include where the arms being traded are used:

- To breach any international or regional commitments;
- To commit serious violations of international humanitarian or human rights law;
- To provoke or exacerbate internal or regional conflict;
- By criminal groups, and other unauthorized users, including terrorists.

10. The obligations that an arms trade treaty establishes must be clear and legally binding, as well as being consistent with existing international norms. They must also be easy to understand and administratively simple to implement. New Zealand agrees that there should be minimum standards applicable to all States (e.g. in terms of the information provided on arms transfer transactions), though this should not preclude States from adopting more stringent measures. While the standards should not be overly prescriptive, there must be sufficient commonality in the understanding of these standards to truly facilitate action on the bilateral, regional and multilateral levels.

11. New Zealand believes that there must be a rigorous and transparent system of enforcement and monitoring to ensure full compliance with the treaty. An effective system of information exchange (which does not compromise commercial confidentiality with respect to legitimate transactions), perhaps reinforced by a simple reporting mechanism, would improve transparency and international confidence in the treaty. While States are ultimately responsible for carrying out an assessment of whether or not to approve an arms transfer, there should be a

mechanism for other States to raise concerns regarding compliance with the treaty. Breaches of the obligations and failures in compliance should also be addressed.

12. The particular circumstances of small States, such as Pacific island countries, need to be taken into account when defining the obligations of an arms trade treaty. International cooperation and assistance measures to help such States implement their obligations would be essential to the full and effective implementation of the treaty.

Niger

[Original: French]
[8 June 2007]

Introduction

1. In the early 1990s the Niger had to grapple with the problem of armed rebellion, which was surmounted thanks to the peace accords signed by the Government of the Niger and the former rebels. Weapons were handed over once disarmament had been agreed upon on 5 June 2000, and the "Peace Flame" ceremony was held on 25 September 2000 in Agadez. There is, nevertheless, some residual insecurity owing to the proliferation and circulation of illicit weapons.

2. The Niger was among the countries that supported the resolution on an arms trade treaty adopted by the First Committee in October 2006 and by the General Assembly in December 2006.

3. Now that the United Nations process is under way, we are pleased to submit our views on "the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms".

4. The Niger recognizes that a number of subregional, regional and multilateral agreements and instruments on the regulation of arms transfers already exist. In spite of all the progress, many gaps and obstacles remain in terms of international arms trade controls and heterogeneity of views regarding the application of the various agreements. The Niger believes that the international nature of the arms trade calls for the establishment of a comprehensive and transparent international system in which all States will take part. This would ensure that all States comply with the highest codes of conduct and observe legal standards in the areas of human rights and international humanitarian law.

Elements of the conventional arms trade that should be included in the arms trade treaty

5. Such a treaty should clearly recognize that all States have the right to acquire conventional arms in order to defend themselves and maintain order, in conformity with international law and international legal standards.

6. It must ensure that transfers do not aid the commission of human rights abuses or of serious violations of international humanitarian law, undermine sustainable development, provoke or exacerbate conflicts or allow arms to flow from the legitimate to the illicit market.

7. The Niger therefore suggests that the treaty should provide for a comprehensive system aimed, at monitoring the cross-border movement of all conventional weapons and other related materials. The system should cover the import, export, transit, trans-shipment and brokering of all conventional weapons, including:

- Heavy weapons;
- Small arms and light weapons;
- Parts and components for all arms;
- Munitions, including explosives;
- The technology employed in the manufacture of conventional arms;
- Arms used for purposes of internal security; and
- Dual-use goods destined for military purposes, security or maintaining order.

8. Niger believes that any arms trade treaty must ensure that arms cannot flow from the legitimate to the illicit market. It therefore proposes that the instrument should cover all aspects of Government-authorized transfers of conventional arms. These are:

- State-to-State transfers;
- State-to-private-end-user transfers;
- Commercial sales;
- Leasing; and
- Loans or gifts of any kind involving the transfer of material goods or credit or anything of value.

Principles, guidelines and parameters that should govern the international transfer of conventional arms

9. The Niger has signed and ratified the Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials drawn up by the Economic Community of West African States (ECOWAS), together with all the legal instruments that deal with this question at the subregional, regional and international levels. This attests to its political will to eliminate the phenomenon of the proliferation of illicit arms. The conclusion of an arms trade treaty will enhance the effectiveness of efforts to that end, taking into account what has already been accomplished and adding to the existing system.

10. Niger is involved in this undertaking. A total of 153 countries voted in favour of initiating a process that will lead to an arms trade treaty. We are aware of the challenges ahead, but the Niger is committed to ensuring the conclusion of a comprehensive and effective treaty.

11. An arms trade treaty cannot be effective unless it relies on the obligations incumbent on States under international law. Niger believes that an arms trade treaty is feasible only if it is based on the principles applicable to arms transfers which are now well integrated in a series of international, regional and subregional treaties and in declarations and resolutions of the United Nations and other multilateral and regional

organizations. Progress has been made at the subregional, regional and international levels. The process of drafting an arms trade treaty must start from this basis.

12. These existing principles are to be found in a wide range of documents, for example:

- The Charter of the United Nations;
- The Geneva Conventions and Protocols;
- The Convention on the Prevention and Punishment of the Crime of Genocide;
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- The International Covenant on Civil and Political Rights;
- The International Covenant on Economic, Social and Cultural Rights;
- The articles on responsibility of States for internationally wrongful acts drafted by the International Law Commission;
- International treaties such as the 1997 Anti-personnel Mine Ban Convention and the 1980 Inhumane Weapons Convention;
- Regional Agreements, including the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons (2004); the Southern African Development Community (SADC) Firearms Protocol (2001); and the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (2006);
- Other agreements such as the United Nations Programme of Action on Small Arms (2001), especially section II, paragraph 11 thereof, the United Nations guidelines for international arms transfers (1996), and the Code of Conduct of Central American States on the Transfer of Arms, Ammunition, Explosives and Other Related Materiel (2005; Central American Integration System).

13. Niger believes that an arms trade treaty should reflect the principles embodied in these documents and, in addition, should require States to:

- Establish transparent national procedures regulating international arms transfers;
- Prevent and combat illicit arms transfers;
- Observe arms embargoes declared by the United Nations;
- Prevent any diversion to prohibited groups, for example, those that commit terrorist or criminal acts;
- Prohibit transfers which breach the obligations incumbent on States under international law;
- Prohibit transfers of arms capable of being used to commit serious violations of human rights or international humanitarian law;
- Prohibit transfers of arms capable of being used to commit crimes against humanity or acts of genocide;
- Prohibit transfers of arms that undermine sustainable development;

- Prohibit transfers of arms capable of endangering internal or regional security.

14. Niger proposes that decisions regarding transfers should remain under national control. One of the central principles of an arms trade treaty must, however, be a requirement that States ensure the establishment of strict control over all international transfers of conventional arms, including registration, in conformity with the principles of international law.

15. An arms trade treaty should determine the circumstances in which a State is required to prohibit an international transfer of conventional arms, pursuant to international law, in order to comply with: the obligations imposed by the Charter of the United Nations; any other treaty or decision which is binding on a State; the legal instruments that prohibit the transfer of certain weapons or simply ban certain weapons; and the obligations deriving from international humanitarian law.

16. An arms trade treaty should also include provisions requiring States not to authorize international transfers of conventional arms when such arms will be or may be used to commit violations of international law, including:

(a) Crimes against humanity or acts of genocide;

(b) Breaches of the Charter of the United Nations or customary law in regard to the threat or use of force;

(c) Serious violations of international human rights law;

(d) Serious violations of international humanitarian law, including the Geneva Conventions and Protocols;

(e) An arms trade treaty should also prohibit any transfer of conventional arms if:

- They are to be used to commit terrorist acts or to promote terrorism;
- They are to be used to commit or facilitate the commission of organized or violent crime;
- They will hold back sustainable development;
- They will give rise to corrupt practices;
- They infringe other international, regional or subregional decisions or commitments or violate agreements on non-proliferation, arms control and disarmament to which the exporting, importing and transit States are parties.

17. An arms trade treaty should also prohibit any international transfer of conventional arms if they are capable of being diverted for one of the uses mentioned above. Such a treaty should provide for specific measures that States should adopt in order to ensure adequate monitoring and enforcement of its provisions. In addition, a system for its effective implementation should be put in place. The treaty should provide for a mechanism which enhances transparency and accountability, in order to build confidence in the effective implementation of its provisions by States.

18. It will be important to establish an arrangement for the establishment of transition periods and for the provision of international support in the implementation of the treaty at the national level.

Norway

[Original: English]
[4 May 2007]

1. The resolution adopted by the United Nations General Assembly on 6 December 2006 requested the Secretary-General to seek the views of Member States on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, and to submit a report on the subject to the General Assembly at its sixty-second session.

2. The following is a preliminary Norwegian contribution to the development of a possible, comprehensive, global and legally binding treaty on the trade and related activities in conventional arms.

Preamble

3. Norway believes that irresponsible and poorly regulated trade in conventional arms fuels conflict and results in serious human rights violations and gross breaches of international humanitarian law. This represents the overriding imperative for an arms trade treaty.

4. Under the Charter of the United Nations all Member States have an obligation to encourage and promote universal adherence and respect for human rights and fundamental freedoms. Human rights include civil and political rights, as well as economic, social and cultural rights — all prerequisites for sustainable development.

5. A large number of regional and multilateral arms transfer control agreements are in existence — reflecting overwhelming support among States Members of the United Nations for taking the arms trade treaty initiative forward.

6. Regardless of the broad international consensus on the need for international standards on arms trade transfers, current national rules/regulations vary greatly. Some States have highly developed transfer controls and systems in place to enforce them strictly. Others might have good controls on paper, but weak enforcement practices. Some have no implementation mechanisms at all.

7. In our view, a globally agreed framework for arms transfer control, including stringent implementation standards, is a pressing priority. Furthermore, we believe that such an agreement is feasible. States have already demonstrated collective efforts in order to address weapons of mass destruction. We should therefore also be able to reach global agreement on the issue of weapons transfer. Moreover, the level of cooperation in the field of conventional arms control is already significant and growing rapidly.

Feasibility

8. We recognize that developing a comprehensive, legally binding instrument on arms transfer controls will not be an easy task, but we believe firmly that it is feasible. Firmly established arms transfer principles should be built upon. These include fundamental principles contained in, inter alia, the Charter of the United Nations and related Security Council resolutions and the Geneva Conventions. References to these instruments should be included in an instrument. Other legal obligations as well as politically binding guidelines indicate the feasibility of

concluding an instrument along the lines foreseen in General Assembly resolution 61/89. These relevant international and regional agreements and national practices currently in effect should be reflected when drafting a global treaty. Ensuring compatibility between these agreements and a treaty would be desirable.

Scope

9. Needless to say, States have an inherent right to individual and collective self-defence in accordance with the Charter and also a right to acquire legitimate conventional arms for these purposes. Resolution 61/89 also clearly acknowledges the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs, and in order to participate in peace support operations. These rights are accompanied by responsibilities and obligations with respect to States' transfers of arms.

10. As a point of departure, we would support a global system of controls that in a comprehensive way regulate all aspects of trade in and transfers of conventional arms and associated equipment. Import, export, transit, trans-shipment and brokerage should be covered. Controls on licensed production and intangible transfers of technology should also be considered. What is meant by these terms would have to be clearly defined.

11. For the equipment to be covered, we think a list might broadly be based on the United Nations Register of Conventional Arms, i.e.:

- Battle tanks
- Armoured combat vehicles
- Heavy artillery systems
- Combat aircrafts
- Attack helicopters
- Certain naval vessels
- Missiles and missile Launchers, including MANPADS
- Other SALWs
- Landmines
- Munitions

12. Also to be considered is technology to produce and maintain such equipment, related parts and components of certain dual-use items directly relevant to the above arms, and munitions and production technology.

13. We believe that a detailed list of items to be covered needs to be worked out. A simple list of a more generic nature might in our view leave open the possibility of unnecessary confusion over whether an item is covered or not. Apart from the United Nations Register, other lists of relevance have been developed, inter alia by the European Union and the Wassenaar Arrangement.

14. Definitions of the different items to be covered would also need to be developed. The Treaty on Conventional Forces in Europe might be of particular relevance in this respect.

15. The issue of dual use is a complex one and would have to be considered thoroughly.

Draft parameters

16. The key element of an arms trade treaty will be an agreement on establishing legally binding international standards which States agree to follow. A number of commitments related to international arms transfers have already been assumed by States. These commitments would represent fundamental building-blocks for an arms trade treaty and the development of conditions and prerequisites which would apply when considering any international transfer of conventional arms. It might be advisable that the treaty explicitly (in a preamble) refer to relevant international and regional agreements/arrangements relevant to the trade in conventional arms. Those would include instruments of a legally as well as a politically binding nature.

17. Other factors, not necessarily included in the instruments referred to above, which would be required to be taken into account by States before authorizing an international transfer of conventional arms, might include:

- Their relevance to terrorist activities;
- Their relevance to violent and/or organized crime;
- Their potential for destabilizing regions and/or countries;
- Their potential for provoking or increasing internal and regional conflict;
- Their potential for negatively affecting sustainable development;
- Involving corrupt practices;
- Their risk of being used for violations of international humanitarian or human rights laws;
- Transfers in breach of any international or regional commitment and/or obligation;
- Transfers being used for or to facilitate uses referred to above.

18. In any of such cases permission to transfer should be refused by the States. Standards required would be minimum, while States might certainly decide to apply higher standards. The obligation to apply United Nations embargoes is unambiguous. An arms trade treaty must ensure that no arms transfers take place that will break, undermine or contravene United Nations embargoes.

19. Agreed standards must be applied in a transparent and accountable manner. Accordingly, a mechanism is needed to ensure that information on transfers is readily accessible to all States. In line with European Union practices, refusals of transfer might also be communicated to other parties.

20. We also believe that an instrument would need mechanisms for information exchange, reporting and documentation, monitoring, enforcement (how to deal with breaches of treaty obligations), assistance and cooperation, etc. Eventual mechanisms would preferably not be too burdensome; either financially or as far as other resources are concerned.

21. However, to us it seems self-evident that certain resources would be required to implement an instrument as might be foreseen. The idea of some kind of

permanent structure/body to support the implementation has been raised. We think such a structure is needed, or indeed inevitable.

22. None of the ideas/thoughts put forward in this paper are of a definitive nature. Most are meant to be informal, preliminary and of an initial nature. However, we hope that they, in a limited way, might be a useful contribution to the future debate on these issues.

Pakistan

[Original: English]
[31 May 2007]

1. Pakistan welcomes the opportunity provided by the discussion on an arms trade treaty pursuant to the adoption of General Assembly resolution 61/89.

2. The control and regulation of armaments is one of the objectives mentioned in the Charter of the United Nations. This objective was seen as complementing the central purposes and principles of this Charter, i.e. preventing war; promoting international peace and security; pacific settlement of disputes; non-use or threat of force; the right of States to self-defence; and the right of peoples to self-determination.

3. The proposal for an arms trade treaty should be viewed in a historical and political context. Attempts to regulate and control armaments have a long history. Efforts were made in Europe, Asia and elsewhere to ensure a balance of armaments and armed forces between the major powers before, between and after the First and Second World Wars. These efforts, quite evidently, were not ultimately successful.

4. Over the past 65 years, the international community has made various efforts for arms control and regulation of armaments. Overall, however, conventional arms control has not been very successful so far.

5. During the cold war, global military expenditures rose to over $1,100 billion. There was a brief decline after the end of the cold war. But, in the past few years, global military spending has risen once again to $1,000 billion, of which $600 billion is spent by four advanced countries: the United States, the United Kingdom, France and Japan. The military budgets of some "emerging" powers are also visibly growing.

6. Similarly, international trade in armaments has also significantly increased in recent years from $33.9 billion in 2001 to $53.3 billion in 2004. The large part of this trade, an estimated 66 per cent, occurs between the major arms suppliers, which are all developed (OECD) countries.

7. It is notable that the major arms production and transfers take place within and among these developed countries. In 2004 the combined value of arms supplied by the United States, Russia, France and the United Kingdom alone was $29.4 billion, out of a global total of $53.3 billion (an estimated 55 per cent of total arms supplies).

8. Any treaty or agreement for the regulation of conventional weapons would need to address both the production of and trade in armaments. An arms treaty which addresses the transfer of arms but not their development, production and deployment will be internationally inequitable against countries which do not

themselves produce conventional armaments. It will, therefore, prove difficult to conclude or implement.

9. Therefore, genuine efforts to prevent the adverse consequences of conventional arms proliferation must consider not only constraints on their transfer and trade, but also the factors and motives propelling their development, production and deployment as well as their sale and transfer to other countries. As historical experience indicates, controls on the transfer of or trade in armaments cannot be divorced from the causes of arms production and trade as well as the motivation for their transfer and sale. Mostly, transfers are driven by strategic considerations. Yet, a major motivation for such transfers is often the significant profits which accrue for countries, and their companies, from arms sales, especially the sale of advanced weapons systems.

10. Any treaty or arrangement should fulfil the fundamental purpose of arms control, i.e. to promote international peace and stability, peaceful settlement of disputes, socio-economic development, etc.

11. Another major motivation for arms production and acquisition is the desire of States and Governments for assured security against present, perceived or contingent threats. Therefore, any arms control agreement will need to include, or be accompanied by, measures to resolve conflicts and disputes or to remove perceptions of threats that propel arms production and acquisition. Apart from conflicts and disputes, such threat perceptions also arise from the possession, development, production, acquisition and development of larger and more lethal or sophisticated weapons and weapons systems by potential adversaries.

12. Such threat perceptions, and the arms races they spawn, mostly manifest themselves at the regional and subregional levels and will have to be addressed in that context. The prime example, in contemporary times, of a regional arrangement for the regulation of armaments and armed forces is the Conventional Armed Forces in Europe Treaty in Europe. Although this treaty is at present under political shadow, it offers a good example of efforts to reduce mutual threat perceptions through the reciprocal control and regulation of arms deployments in specified areas and in specific ways.

13. Pakistan has sought to promote conventional arms balance, control and disarmament at the regional and subregional levels. The General Assembly has adopted, with overwhelming support, several resolutions sponsored by Pakistan on conventional arms control at the regional and subregional levels. These resolutions underline (a) that conventional arms control must address the root causes of insecurity, emanating from disputes, conflicts and threat perceptions; (b) that it must seek to promote balance among regional States; and (c) that the Conference on Disarmament should formulate principles that can serve as a framework for regional agreements on conventional arms control. The resolutions have also affirmed the need for States with larger military capabilities to assume a special responsibility in promoting conventional arms control agreements to promote regional security.

14. In the context of regional arms control, the General Assembly has endorsed several principles:

(i) That conventional arms control needs to be pursued primarily in the regional and subregional contexts since most threats to peace and security arise mainly among States located in the same region or subregion;

(ii) That the preservation of a balance in the defence capabilities of States at the lowest level of armaments would contribute to peace and stability and should be a prime objective of conventional arms control;

(iii) That militarily significant States and States with larger military capabilities have a special responsibility in promoting agreements for regional security;

(iv) That an important objective of conventional arms control in regions of tension should be to prevent the possibility of military attack launched by surprise and to avoid aggression.

15. Any treaty or arrangement must address the issue of arms sales which are driven by the profit motive. Such sales contribute to heightening threat perceptions, especially in volatile regions, and contribute to the escalation of the arms race — conventional and non-conventional — at the regional or subregional level. The criteria already approved by the United Nations, and the experience of previous arms control efforts, e.g. the Conventional Armed Forces in Europe Treaty, could be utilized to allow the sale or transfer of conventional weapons solely for the purpose of addressing genuine national threat perceptions.

16. Finally, any treaty or arrangement must seek to achieve its basic raison d'etre, i.e. the promotion of the fundamental purposes and principles of the Charter of the United Nations — prevention of war, promotion of international peace and security, pacific settlement of disputes, respect for the sovereignty, sovereign equality and territorial integrity of States and the right of peoples to self-determination, the right of self-defence and the illegality of aggression, foreign occupation and the use of force in violation of the Charter.

17. Therefore, any such treaty or agreement should be based on the following agreed principles:

(a) The principle of equal rights and self-determination of peoples, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations;

(b) The right of each State to security and the inherent right of individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations;

(c) The right of all States to manufacture, import and retain conventional arms for self-defence and security needs, and in order to participate in peacekeeping operations;

(d) Maintenance of regional and international peace, security and stability;

(e) Prevention and resolution of conflicts and disputes;

(f) The need for balanced reduction of armed forces and of conventional armaments based on the principle of the undiminished security of all States, taking into account the need of all States to protect their security;

(g) The special responsibility of States with the largest military arsenals in pursuing the process of conventional armaments reductions;

(h) Regulation of international trade in conventional arms, especially advanced, highly lethal and destabilizing transfers of conventional weapons;

(i) Preservation of a military balance among States at the lowest level of armaments and defence expenditures.

18. The proposal for an arms trade treaty offers the opportunity to address the issues raised in the preceding paragraphs. An in-depth and honest discussion of all these issues could lead to the evolution of well-considered and acceptable options for the better regulation, control and reduction of conventional armaments and to arrest their negative impact on international peace and security. Such a discussion should take place both at the expert and the political levels under the aegis of the United Nations.

19. Such discussion could well lead to the conclusion that the comprehensive objectives endorsed by the General Assembly can be achieved by not one but several instruments and measures, addressing different aspects of the problems posed by expanding conventional weapons production and trade. The conclusion and implementation of agreed instruments and arrangements — national, regional and global — could be appropriately sequenced to achieve general acceptance.

20. While the discussion to identify a specific treaty or treaties, or other arrangements, for the regulation of conventional weapons is under way, Pakistan would suggest that, in the short term, it may be useful to:

(a) Fully implement and improve existing global confidence-building measures and transparency mechanisms, such as the United Nations Register of Conventional Arms, the UN Instrument on reporting military expenditures etc.;

(b) Encourage States parties to fully implement the Convention on Conventional Weapons and Mine Ban Convention;

(c) Further strengthen existing voluntary national controls on transfers of conventional weapons;

(d) Support and strengthen various existing regional and subregional agreements on the regulation of arms mechanisms;

(e) Support and implement the United Nations Programme of Action on SALW;

(f) Promote confidence-building and transparency measures at the bilateral, subregional and regional levels in the political and military fields, as well as arms control and disarmament;

(g) Encourage States to halt and reduce conventional armaments and armed forces, including military budgets;

(h) Evolve subregional and/or regional restraint and control mechanisms (such as the proposal of Pakistan for a strategic restraint regime in South Asia);

(i) Negotiate "principles" for the regulation and control of conventional weapons, perhaps in the Conference on Disarmament.

Panama

[Original: Spanish]
[27 April 2007]

1. The Ministry of the Interior and Justice is of the view that the draft international code of conduct on arms transfers established a set of principles which should inform all decisions on the export of arms: (1) prohibition of the use of arms to commit atrocities, genocide or violence against humanity; (2) prohibition of the use of arms to commit violations of human rights or humanitarian law; (3) responsible transfer of arms; (4) respect for sustainable development and peaceful coexistence.

2. The draft code establishes a set of basic, universal and binding standards for the regulation of the international arms market. It was drawn up by a group of organizations that specialize in human rights, development and public policy and enjoys the support of more than 20 Nobel Peace Prize laureates, 30 Governments, notably those of Costa Rica and the United Kingdom, and a broad network of civil society organizations.

3. The arms trade treaty would oblige all States engaging in the arms trade, including those that transfer or receive arms and those that allow the transit of arms through their territory, to guarantee that such arms will be used only by the authorized recipients for legitimate purposes, in compliance with standards of international law. The treaty would provide that States must authorize all international arms transfers and would also set criteria for the issuing of such authorizations.

4. It is important to emphasize that such an international instrument would not establish a new set of standards but rather would reinforce existing principles of international law. The treaty would bring together, in a single universally applicable instrument, the restrictions on the power of States to authorize arms transfers that are currently established, either implicitly or explicitly, in standards of international law.

5. The following principles have been submitted as a model by a group of non-governmental organizations, in consultation with highly respected experts in international law:

- States shall not authorize international arms transfers that violate their explicit obligations with regard to arms under international law;
- States shall not authorize international arms transfers in cases where the arms will be used or are likely to be used to violate international law;
- Transfer controls must be comprehensive.

6. The objectives to be achieved by the adoption of the treaty are perfectly in line with the recently adopted Code of Conduct of Central American States on the Transfer of Arms, Ammunition, Explosives and Other Related Materiel, which was put forward by the Central American Security Commission of the Central American Integration System (SICA) and was approved by all the Presidents of the region.

7. In view of these considerations, we believe that we should support the adoption of an arms trade treaty as an essential element of our foreign policy, since the adoption of an instrument of this kind would oblige States to conduct all

activities related to the firearms trade in a responsible manner through compliance with the minimum requirements for the authorization of arms transfers. The purpose of these requirements would be to prevent the supply of arms in cases where they could be used to commit grave human rights violations.

8. Such an instrument would also oblige all States to apply the same rules for the authorization of arms transfers. There are currently no standard rules in this area; the instrument would make it possible to bring arms trade practices into line with the existing obligations of States under international law.

9. We further consider that, given certain particularly troubling circumstances, it is essential to push for a treaty that controls the excessive and expanding international arms trade and puts an end to the uncontrolled flow of arms into conflict zones.

Paraguay

[Original: Spanish]
[4 June 2007]

Introduction

1. Paraguay was one of the sponsors of resolution 61/89, entitled "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", adopted by a qualified majority of States in the General Assembly in December 2006.

2. The broad support expressed for this resolution demonstrates the urgent need for concerted international efforts to establish effective controls with respect to the international arms trade. Illicit trafficking and illegal trade fuel conflicts, human rights abuses and gross violations of international humanitarian law, while at the same time undermining countries' efforts towards sustainable development.

Feasibility

3. Paraguay supports the conclusion of an arms trade treaty and considers that it would be feasible to negotiate a legally binding instrument that would fill existing gaps in the agreements already in force on the control of arms transfers.

4. The global, multilateral, regional and subregional instruments currently in force demonstrate the international community's desire to regulate and effectively control the arms trade.

5. Such an arms trade treaty should be based on existing instruments in this area, which reflect States' growing concern about the implications and the negative impact of the illegal arms trade.

6. A number of legally binding instruments and political instruments could be used as a basis for the negotiation of an arms trade treaty:

- **The Charter of the United Nations;**
- **The resolutions on the subject adopted by the General Assembly and the Security Council;**

- **The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and the protocols thereto;**

- **The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction;**

- **The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;**

- **The Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects;**

- **The United Nations Register of Conventional Arms;**

- **The International Instrument Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons.**

7. In addition, existing regional instruments on this subject could also furnish elements that could be included in such a treaty. Among these regional instruments are:

- **The Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials;**

- **The Inter-American Convention on Transparency in Conventional Weapons Acquisitions;**

- **The Organization of American States (OAS) Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components and Ammunition.**

8. Illicit arms trafficking usually leads to violations of human rights and of international humanitarian law. It is thus absolutely necessary that the treaty envisage stricter controls on transfers in order to guarantee respect for human rights and international humanitarian law.

9. The treaty should take into account the responsibility of the exporting and importing States to ensure that legally traded arms are not diverted into the illegal market. Enforcement of the treaty will not be successful unless it involves all the actors that participate in the legal arms trade.

10. The treaty should acknowledge the legitimate right of all States to manufacture, import, export, transfer and possess conventional arms for legitimate self-defence, in accordance with Article 51 of the Charter of the United Nations. However, the arms trade treaty should prohibit conventional arms transfers in cases where there is clear evidence that they could be used and/or diverted for purposes that entail violations of international humanitarian law, the commission of crimes against humanity and violations of international human rights law, or arms embargoes imposed by the United Nations Security Council.

11. The treaty should include a commitment by States, at the national level, to enact and enforce laws, regulations and administrative procedures to guarantee compliance with the obligations undertaken by those States.

12. Paraguay considers that the treaty should include pledges of cooperation as a crucial requirement for its effective enforcement.

Scope

13. The arms trade treaty should cover the manufacture, import, export, transfer, transit, transport, trans-shipment and brokering of all conventional arms, and should set out the conditions in which they may be taken out of circulation (destroyed).

14. The list of conventional arms should include:

- **Heavy weapons;**
- **Small arms and light weapons, and parts and components for them;**
- **Ammunition, including explosives;**
- **Technologies used to manufacture conventional arms;**
- **Arms used for domestic security purposes; and**
- **Dual-use goods for military, security or law enforcement purposes.**

15. Paraguay considers that the United Nations Register of Conventional Arms, which defines one category of conventional arms, could be taken into account, as could the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons.

Parameters

16. The arms trade treaty should respect all existing standards in this regard that are contained in international treaties and customary law, as well as the principles enshrined in the Charter of the United Nations, international humanitarian law and international human rights law.

17. The arms trade treaty should require States to authorize and effectively control international arms transfers and to prevent them from being diverted to the illicit market.

18. The treaty should require States to respect arms embargoes imposed by the United Nations, to prohibit transfers that violate obligations arising under international law and to refuse to authorize transfers of conventional arms in cases where such arms are likely to be used, among other things, for the commission of terrorist attacks, violent crime or gross violations of human rights or international humanitarian law.

19. The instrument should cover all conventional arms, especially small arms and light weapons, as well as ammunition.

20. Paraguay considers that agreement should be reached on the establishment of a mechanism for monitoring and enforcing compliance with the treaty.

Conclusion

21. The adoption of General Assembly resolution 61/89 represented a significant step towards the goal of making concrete progress in regulating the global arms trade and, ultimately, in combating the illicit trade in conventional arms.

22. Because the arms trade is increasingly global in scope, no country is immune to the proliferation of conventional arms. Only a joint effort that involves Governments and civil society will make it possible to conclude an arms trade treaty.

23. In Paraguay, one positive development is the coordinated work that has been done by the State and civil society to combat illicit trafficking in small arms and light weapons. The present report reflects the views of various segments of civil society, which agree that negotiations should be undertaken on an arms trade treaty.

24. Paraguay has thus offered its views on the feasibility, scope and draft parameters of a legally binding instrument establishing common international standards for the import, export and transfer of conventional arms. It looks forward to the establishment of the group of governmental experts and to receiving the report on the latter's work to be submitted to the General Assembly at its sixty-second session.

Peru

[Original: Spanish]
[9 May 2007]

Introduction

1. Statistics show that illicit drug trafficking accounts for transactions amounting to more than $1 billion per year. According to the information available, this illegal activity is surpassed only by the arms trade, with no distinction made between legal and illegal. Hence, it is quite clear that this industrial-commercial activity is the most lucrative of all of the world's businesses.

2. But there is a more important and indeed more worrisome fact. Practically all arms industries are State-sponsored or private industries strictly controlled and supervised by the security systems implemented by Governments.

3. It must be acknowledged that, in the majority of cases, this control and supervision is indeed strictly exercised, and this type of trade is subject to a series of restrictions and conditions that should make it among the most secure, verifiable and reliable.

4. However, this is not the reality, and the vast sums resulting from its transactions, many of which are not legal, should be noted. There is an ever-widening gap between transactions conducted under legal controls and those part of illegal trade, whether through international networks or so-called "triangulation", meaning a change of final recipient without the knowledge or approval of the manufacturer, whether State or private.

5. This tragically real situation requires United Nations Member States to take appropriate and immediate measures. Therefore, in the view of the Government of Peru, the adoption of resolution 61/89 is an essential milestone on that road which will allow the necessary measures to be taken to slow the illegal arms trade and support the producers of such goods in the exercise of greater control over their final destination.

6. It is unacceptable that, in situations of internal conflict or so-called low-intensity conflicts, an impressive display of sophisticated weapons can be

observed. For the most part they have been acquired on the black market, causing death and destruction, above all among the civilian population, through their indiscriminate and excessive use. Moreover, the United Nations own contingents deployed in peacekeeping operations find themselves facing insurgents or armed groups with heavy weapons acquired by completely illegal methods which put at risk the operations themselves and the lives of their members.

7. Furthermore, the escalation of arms purchases affects a country's development plans by requiring enormous quantities of financial resources in order to keep the armed forces operational, resulting in a hidden arms race that causes regional instability. This factor should therefore also be taken into account when conducting arms sales transactions, even when they are absolutely legal and transparent.

8. At the beginning of this document the immense resources from illicit drug trafficking were noted. Organized gangs, together with terrorist groups, are two of the main "clients" of the overflowing stocks of all types of weapons, over which all legal control has been lost. This good fortune for illegal "militias" is a terrible threat to the stability of States who find themselves battling those two scourges, since such groups are often better armed than the legitimate armed forces.

9. Thus we are facing a highly complex phenomenon. It must be clearly established that no attempt is being made to affect or co-opt the right of States to self-defence and to maintain well-equipped and well-prepared armed forces. What is being sought is the creation of a system that allows absolute transparency in the arms trade that generates confidence, since States can learn of the acquisitions of others, and allows strict control of their origin and final destination. Therefore, arms-producing, exporting and purchasing countries and those which may be used for their transit would be part of this system, in such a way that the transaction can be effectively traced to avoid diversion of weapons and their subsequent entry into the illegal market.

Feasibility

10. The international community has been trying for many years to develop a system that would allow effective control of the arms trade. There are various initiatives, both regional and global, not to mention the bilateral initiatives that are generally a part of the confidence-building measures that States have developed to achieve greater transparency in arms acquisitions and transfers. However, in almost every case, there is a factor that weakens them: they are non-binding. Thus it can only be hoped that States will comply with these international agreements on the basis of good faith, in the absence of any sanctions or complaint mechanisms in the event that they do not, except for formal declarations by the governing body of the State that considers itself affected.

11. How can the real defence and security requirements of a State be determined, that would allow it to justify its arms purchases to the international community, and on the other hand, would give assurances to the producing State that they will not be used to attack a third State? How can this concern be harmonized with the provisions of the Charter of the United Nations on the rights of States stipulated in Article 51? These are undoubtedly two of the most complex topics that must be addressed.

12. It would not be practically feasible to consider the possibility that States could make a type of declaration of their defence requirements, thus, it is not an option to establish this type of register. The path would be, therefore, to entrust this to States in compliance with the provisions that the treaty would contain. It has to be a comprehensive and verifiable international instrument that contains sanctions, which in turn would require the establishment of a specific international commission on its observance, considering the possibility that it could report directly to the Security Council.

13. There is also an extremely sensitive component to be considered: responsibility. To what point and when is the State where the weapon was produced held responsible? Would there be a type of "shared responsibility" of States involved in the operation? All this must be clearly established in a treaty of this nature. There cannot be gaps that would allow States to fail to assume their responsibilities.

14. Another aspect is the internal affairs of States themselves and the ability to adapt them to a treaty of this nature. Failing to take this aspect into account could cause certain States to be unable to accede to this type of international instrument, which would devolve into a well-meaning but impractical exercise. The stated objective of producing an effective international instrument that would allow effective control of the arms trade would not be achieved.

Scope

15. The treaty must be exhaustive and comprehensive. It must cover all types of arms and conventional weapons which must be clearly defined and identified, also leaving open the possibility of incorporating new modalities of war materiel. An international instrument on the arms trade should cover all the following conventional weapons:

(a) Small arms: (revolvers, pistols, sub-machine guns, rifles, shotguns and light machine guns).

(b) Light weapons: (heavy machine guns, mortars over 100 mm calibre, grenade launchers, rocket launchers, portable guns, mines, anti-tank missiles and MANPADS (man-portable air defence systems)).

(c) Conventional weapons: (principal battle tanks, armoured combat vehicles, combat aircraft, attack helicopters, warships, missile launching systems and large-calibre artillery over 100 mm, and missiles and missile launchers).

16. Likewise, the international instrument should cover ammunition for the various major categories of conventional weapons, including ammunition for small arms and light weapons. It must include as well the technology to produce and maintain them, their components and other related materials.

17. Parts and replacement parts must also be taken into account, as well as so called "modernizations", meaning the addition of new components to existing equipment and "platforms" (aerial, naval and land). Furthermore, we cannot leave out dual-use manufactured goods — civilian and military — since that would help to prevent materials acquired for non-military use from being diverted into other types of activities.

18. The instrument should also cover other activities, such as brokerage, transit and trans-shipment, loans, grants, exports and temporary imports for demonstration or exhibition purposes inter alia; and define each one of these activities.

Parameters

19. The treaty should be comprehensive, verifiable and binding. Therefore, it must have a body to monitor its observance and potentially to receive complaints and impose sanctions.

20. It must give special consideration to the national security of States Members of the United Nations and their right to individual and collective self-defence.

21. States must assume their responsibilities with respect to the approval of transactions and shipment to the final destination, and must, when necessary, notify transit States of those goods.

22. All transfers must be certified in advance, which does not contravene any international instrument or convention or Security Council resolution.

23. It must provide that the final destination for the goods shall not be States involved in a conflict.

24. It must ensure that the transactions do not provoke an arms race in the subregion or region of the countries of destination.

25. Shipment of war materiel to States where a United Nations peacekeeping operation is deployed under Chapters VI and VII of the Charter shall not be permitted.

26. An assessment will have to be made whether the transfer of weapons will have effects detrimental to the full observance of human rights or will perpetuate acts of genocide and crimes against humanity.

27. As in other international arms control treaties, in particular the Chemical Weapons Convention, it is appropriate to provide for the need to offer assistance and cooperation to less developed States in the implementation of the new treaty.

28. Peru has ratified various international instruments relating to small arms and light weapons and conventional weapons that it is required to observe:

- The Charter of the United Nations, including the obligation to comply with Security Council resolutions
- The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects and its related Protocols
- The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime
- The Inter-American Convention on Transparency in Conventional Weapons Acquisitions of the Organization of American States
- The Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials of the Organization of American States

- Decision No. 552 of the Andean Community: the Andean Plan to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

Poland

[Original: English]
[16 March 2007]

1. As one of the early supporters of the arms trade treaty initiative, Poland noted with satisfaction the global support for resolution 61/89. Adoption of this document on 6 December 2006 is a crucial step in assuring more responsible and transparent arms trade. We acknowledge that every country has an inalienable right to self-defence, and thus to arms purchase. However, we watch with growing concern the negative impact of irresponsible and uncontrolled arms trade on sustainable development, human rights, peace and security. We hope that the above-mentioned resolution will lead to the adoption of comprehensive, global and legally binding standards for trade in all conventional arms. We remain committed to working with the United Nations, and with other partners, to conclude a meaningful treaty.

Feasibility

2. As the discussion in the General Assembly showed, agreeing on a comprehensive and legally binding instrument will not be easy. However, our goal should be to ensure that the treaty covers all transactions related to trade and transfers of conventional arms and foresees a detailed scrutiny of their potential impact. In case of a serious risk of negative consequences, the conclusion or execution of these transactions should not be allowed.

3. We believe that the arms trade treaty first of all should be based on global obligations stemming from such legally binding documents as the Charter of the United Nations or United Nations Security Council resolutions. Nevertheless, regional and thematic initiatives should also be taken into account. Especially useful in this area may be experience gained from implementation of the European Union Code of Conduct on Arms Exports of 1998, which established criteria for arms export. We consider as equally important the OSCE Criteria for Conventional Arms Transfers of 1993, as well as the Wassenaar Arrangement Best Practice Guidelines for Exports of Small Arms and Light Weapons of 2002. The question of brokering is covered in a model way in the EU Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering.

Scope

4. Negotiations on the scope of the treaty will be crucial in assuring the effectiveness of the whole instrument. We believe that the treaty should cover all conventional arms. We support the inclusion of an annex listing all arms covered by the treaty, or at least a specification of categories. The experience from the United Nations Register of Conventional Arms would be useful; however, the specification of categories should be more comprehensive and precise, as in the European Union Munitions List. A compromise could also be reached to include terminology used in arms embargoes imposed by the United Nations Security Council.

5. We support the treaty covering all transactions concerning trade in arms, including import, export, re-export, transfers, transit, trans-shipment and brokering. Transactions related to arms trade and transfers, such as technical assistance, should also be included. Omitting one of these transactions could create loopholes that would be used to get around the treaty.

Draft parameters

6. We are convinced that the treaty should establish standards that countries would have to take into account while considering a licence for trade in arms. The final decision authorizing transactions should, however, remain in the scope of national responsibility.

7. These standards could include threats to:

- Maintenance of international peace and security;
- Human rights;
- International law, including international humanitarian law;
- Non-proliferation and disarmament agreements;
- Safety of peacekeeping operations;
- Success in fight against international crime and terrorism;
- Sustainable development.

8. We realize that some countries may encounter problems in implementing the treaty and the risk of these difficulties may even stop them from joining the treaty. International cooperation and assistance should therefore be envisaged in the treaty.

Portugal

[Original: English]
[29 March 2007]

Introduction

1. As a staunch supporter of the arms trade treaty initiative since its inception, Portugal is fully committed to working with other States Members of the United Nations with a view to devising a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms.

2. As recognized in resolution 61/89, the absence of such an instrument is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development.

3. Unlike in the fields of chemical, biological and nuclear weapons, which are presently covered by legally binding treaties, we still do not have such an instrument on conventional arms.

4. It is our belief that the time is ripe for the international community to fill this gap and that the United Nations is the adequate forum to deliver a truly universal and legally binding instrument on the trade in conventional arms.

Feasibility

5. Achieving an agreement on a comprehensive and legally binding instrument, involving producers, suppliers and importers, will certainly be a challenging task and a time-consuming exercise. Nevertheless, we believe the goal to be attainable and various indicators point to this possibility.

6. The approval of resolution 61/89 by the General Assembly revealed a very significant critical mass of States from all regions of the world willing to take the first steps towards a legally binding arms trade treaty. Bilaterally or through coordinated efforts, various States are trying to ensure that the issue remains high on the international agenda and are exchanging information on the initiative in all regions. The active involvement of civil society and the desirable participation of industry in this process also constitute important elements to be taken into account.

7. Existing international agreements, customary international law and politically binding guidelines could be used as a starting point for the content of a future instrument, such as:

- The Charter of the United Nations;
- United Nations Security Council embargoes;
- The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects;
- The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction;
- The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition;
- The 1991 P5 Guidelines for Conventional Arms Transfers;
- The United Nations Register of Conventional Arms;
- The 1996 United Nations Guidelines for International Arms Transfers;
- The United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

8. Moreover, a range of very valuable regional, subregional and organizational instruments on arms transfers are already in place and should be used to provide vital building-blocks for a future arms trade treaty, such as:

- The 1997 Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials;
- The 1999 Inter-American Convention on Transparency in Conventional Weapons Acquisitions;
- The 2001 Protocol on the control of firearms, ammunition and other related materials in the Southern African Development Community region (SADC);
- The 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons;
- The 1993 OSCE Criteria for Conventional Arms Transfers;

- The 1995 Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies;
- The 1998 European Union Code of Conduct on Arms Exports;
- The 1998 OAS Model Regulations for the Control of Firearms;
- The 2000 OSCE Document on Small Arms and Light Weapons;
- The 2005 Nairobi Protocol and Best Practice Guidelines on Small Arms and Light Weapons;
- The 2005 Central American Integration System (SICA) Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Material.

Scope

9. The effectiveness and impact of an arms trade treaty will depend to a large degree on its agreed scope, namely the items and transfers to be covered in a future instrument. For it to be as comprehensive and far-reaching as possible, we believe the arms trade treaty should cover all conventional weapons, including ammunition, such as battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, small arms and light weapons, including man-portable air defence systems, as well as components and technology specifically designed for the manufacture of such weapons.

10. In order to avoid possible ambiguities, a detailed list of the agreed items should be annexed to the treaty and could possibly be inspired by other already existing compilations, such as, for example, the Wassenaar Munitions List. In the same spirit, it is also desirable that the type of operations covered by the treaty should be clearly spelled out. In our view, besides the import, export and transfer of conventional arms, the treaty should also include other activities like brokering, transit, trans-shipment, re-export and technical assistance.

Draft parameters

11. The principles or criteria outlining the conditions under which arms transfers should or should not be allowed will certainly form the central element of a comprehensive arms trade treaty. As a minimum, the following issues could be considered: respect for international obligations of States Members of the United Nations, respect for international humanitarian or human rights law, the promotion of sustainable development, the maintenance of international and regional peace, security and stability, the prevention of diversion of arms and the prevention of internal and regional conflicts or terrorist acts.

12. Against this background, the instrument should also reaffirm the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations, as well as the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs, and in order to participate in peace support operations.

13. Decisions regarding the authorizations of each transaction should be made on a case-by-case basis and remain in the internal sphere of competence of individual Member States.

14. Due consideration will also need to be given to an adequate information sharing mechanism that will ensure transparent application of the instrument, involving approved transactions and, preferably, also transfers that have been denied. In principle, an international registry could collect national annual reports and compile an international annual report. In addition, provisions should be envisaged for feasible monitoring and enforcement mechanisms.

15. Equally important, and in order to ensure the universal application of the treaty, adequate provisions for international cooperation and assistance will need to be devised.

Conclusions

16. Portugal hopes that the above views will contribute to the process towards a legally binding instrument to ensure a responsible arms trade and reiterates its full support to the work of the group of governmental experts that will commence its task in 2008.

Republic of Korea

[Original: English]
[1 May 2007]

Introduction

1. It has already been observed that the threat posed by conventional weapons is much graver than that of weapons of mass destruction. Since the end of the Cold War, armed conflicts involving civilians bearing conventional arms, particularly small arms and light weapons, have become one of the major sources of humanitarian violations. Seven years ago, in his speech to the Millennium Assembly of the United Nations, then-United Nations Secretary-General Kofi Annan described small arms and light weapons as "weapons of mass destruction" in terms of the carnage they cause. It is estimated that the use of small arms and light weapons causes the death of up to half a million people every year.

2. Nonetheless, the graveness of the threat posed by conventional weapons has received much less global attention than that arising from weapons of mass destruction. As a result, local and regional access to highly lethal conventional weaponry has not been properly regulated. In regions of conflict, including parts of Africa and South America, this unregulated access to conventional weapons has fuelled armed violence and aggravated humanitarian consequences.

3. Given the acute suffering of people in regions affected by armed conflict, we simply cannot turn our backs on the responsibility to address the problems arising from the unrestrained spread of conventional arms. The international community should strive as hard to eliminate the threat posed by armed conflicts in which the weapons of choice are conventional arms as we do to eliminate the threat of weapons of mass destruction. This effort will contribute greatly to overall international peace and security among and within countries around the world.

4. As part of the global effort, at its sixty-first session the United Nations General Assembly adopted a landmark resolution in the field of conventional weapons: resolution 61/89, entitled "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms".

This adoption shows overwhelming international support for the need to control the unregulated spread of conventional arms, and the Government of the Republic of Korea strongly believes that it will provide significant momentum towards the prevention of armed conflicts and the peaceful settlement of conflicts.

5. However, the international community should be fully aware that there are many obstacles to the establishment of stronger controls on the export, import, brokerage, transit, trans-shipment and stockpiling of conventional weapons. The failure of the 2006 Review Conference on Small Arms and Light Weapons is a case in point. The Conference was a venue of fierce disputes between proponents and opponents of the initiative to introduce stronger guidelines on transfer controls into the framework of the United Nations Programme of Action on Small Arms and Light Weapons. There was a lack of consensus on the initiative among countries participating in the conference despite the fact that the initiative was much smaller in scope than what an arms trade treaty is currently targeting. Thus, the global effort to adopt the initiative on a consensus basis failed merely three months prior to the adoption of resolution 61/89 on an arms trade treaty in the First Committee of the General Assembly in 2006. While the adoption of resolution 61/89 is certainly encouraging, we must be mindful that this resolution was not passed by consensus owing to the dissenting views expressed by some of the largest arms exporting countries.

6. Given this reality, the supporters of an arms trade treaty should take a step-by-step approach, bearing in mind that the success of an arms trade treaty depends on the formation of a global consensus on this issue in the near future. In this sense, the Government of the Republic of Korea judges that it is desirable and timely that resolution 61/89 invites Member States to submit their views on the feasibility, scope and draft parameters of an arms trade treaty to the Secretary-General of the United Nations and requests the Secretary-General to establish a group of governmental experts to examine the above issues in relation to an arms trade treaty. The request for Member States' views and the establishment of a group of governmental experts on an arms trade treaty are the right steps towards the successful formation of a global consensus on the treaty. Through these steps, all Member States will be given numerous opportunities to express their own concerns on an arms trade treaty. The process of exchanging views through these steps will definitely help Member States find common grounds for establishing a comprehensive, legally binding instrument setting out common international standards for arms transfer controls.

7. In accordance with paragraph 1 of resolution 61/89, the Government of the Republic of Korea herewith submits its views, assessing from our perspective the feasibility, scope and parameters of an arms trade treaty. Furthermore, the Republic of Korea would like to express its intention to join the process of the group of governmental experts for an arms trade treaty, which is due to meet in 2008.

Feasibility

8. The feasibility of an arms trade treaty is a complicated issue. The fact that numerous guidelines and instruments on arms transfer controls have already been agreed at the local, regional and international levels does not necessarily mean that an arms trade treaty is feasible. How many of the existing guidelines or standards are faithfully complied with? Even if they are feasible on paper, the guidelines or

standards that no countries have sincere intentions to implement are meaningless for combating illicit trade in conventional arms. Thus, the problem is not how to prove the feasibility of an arms trade treaty, but how to produce an arms trade treaty that is feasible while still capable of achieving its fundamental purpose. The concerns discussed in this section should be addressed precisely so that an effective arms trade treaty can be made feasible.

9. Currently, the prerequisite for a feasible arms trade treaty is fully satisfied. There is a great need to develop international common standards required for tighter and stronger national controls governing the transfer of conventional arms with a view to avoiding their diversion to the illicit market and non-authorized users. The absence of effective controls, together with the presence of loopholes and poor enforcement of controls, makes access to arms much easier than it should be. According to the *Small Arms Survey 2001*, 80 to 90 per cent of the global trade in small arms and light weapons starts out in the State-sanctioned trade, and a majority of arms used in regions seriously affected by armed conflicts are not locally produced, but are diverted from the State-sanctioned sector to the illicit market. The ease with which armed groups and criminal organizations can acquire conventional weapons presents us with new challenges. These investigations underline the urgent need of the international community to take swift action to prevent arms dealers from circumventing national controls by taking advantage of loopholes arising from inconsistencies and differences among States' arms control legislation.

10. The arms trade treaty initiative is therefore timely. An arms trade treaty will be a proper means to remove inconsistencies and differences by ensuring that all countries are operating national arms control regimes according to the same standards or guidelines. In addition, most countries agree that the unrestrained proliferation and irresponsible misuse of conventional arms can only be curtailed through international coordination and cooperation. The successful development of an arms trade treaty would significantly enhance international cooperation and coordination to prevent the illicit trade in conventional arms.

11. The evident need for an arms trade treaty, however, does not guarantee its feasibility. The Government of the Republic of Korea believes the following points are critical to the feasibility and effective implementation of an arms trade treaty.

12. First, the existing structure of the international arms trade needs to be fully analysed and then clearly understood. A small number of arms-producing countries account for a significant percentage of arms exports. According to the *SIPRI Yearbook 2006*, the five largest suppliers — the United States, Russia, France, Germany and the Netherlands — are responsible for about 82 per cent of arms transfers worldwide. More troubling is the statistic, quoted by Oxfam in its report entitled *Shattered Lives*, that almost 40 per cent of the arms exports from the largest arms exporting country and 73 per cent of those from one of the co-author countries of the arms trade treaty resolution were bound for Africa and the Middle East, regions devastated by armed conflicts. Against this backdrop, one question can be raised and should be further considered to prepare for a right answer: Is it fair that a majority of countries that do not export or even produce a significant amount of conventional arms should share the same level of responsibility and obligations on arms controls as a few major arms exporting countries do? Also, it becomes clearer that the successful achievement of the goals of an arms trade treaty heavily depends on the political will of the major arms-exporting countries to faithfully implement

the guidelines or standards on arms transfer control. Such an unbalanced trade structure should be taken into account in the process of drafting articles relating to the scope, parameters and obligations of an arms trade treaty. Thus, the group of governmental experts will need to conduct an in-depth investigation of the conventional arms trade in order to provide the necessary factual basis.

13. Second, effective controls on arms transfers require a comprehensive approach that encompasses both supply and demand aspects. Restrictive controls need to be placed on both suppliers and purchasers of arms. Supply-side control measures would focus on an export licensing process that would be operated in conformity with the new standards of an arms trade treaty, while demand-side control obligations would concentrate on post-import issues such as the stockpile management and physically protected storage of arms. Most multilateral export control mechanisms to date have focused on how to enforce reliable end-use certification effectively. As long as reliable end-user certificates are attached to applications for export permits, licensing authorities have traditionally permitted the export of items on control lists. End-use certification has been treated as the most crucial part of enhancing export controls. Multilateral export controls on strategic goods, including conventional arms, have aimed at imposing stronger and more restrictive obligations on suppliers.

14. However, stronger supply-side restrictions are not fully sufficient to cope with the illicit spread of conventional arms, particularly small arms and light weapons. Too often, lax customs enforcement and the lack of proper stockpile and inventory management allow for the unregulated diversion of small arms and light weapons from the State-sanctioned sector to the illicit market through theft, smuggling and other means. According to Adele Kirsten of Gun Free South Africa, in his speech to the 2001 United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, arms are often stolen from licensed shops and private individuals in South Africa, where the two major sources of illegal firearms are loss and theft from licensed firearms owners, and 80 guns a day were reported lost or stolen in 1998.

15. This example demonstrates that tighter and stronger regulations on stockpile management and physical storage of conventional arms are crucial to combating the illicit trade in conventional weapons. Fortunately, many existing guidelines regulating transfer of small arms and light weapons already emphasize the need for States to ensure adequate and detailed standards and procedures for the management and security of their stock of small arms and light weapons. Even so, stronger export licensing processes should be coupled with stronger obligations on the demand side. The arms trade treaty initiative needs to pursue a balanced approach to arms transfer controls, one that gives serious consideration to both the supply and the demand sides of the equation.

16. Third, an arms trade treaty needs to have a verification mechanism to address possible confrontations among countries which can develop as a result of different views on whether an export permit of a certain country is issued in accordance with the agreed parameters. It is important to note that an arms trade treaty can be successfully agreed in the form of a legally binding global instrument as long as the treaty parameters are acceptable to a broad range of countries and do not cause undue political and diplomatic disputes. Given the reality that the issues of terrorism and human rights give rise to fiercely conflicting views, treaty parameters relating

to these issues may cause disagreements among countries around the world. Furthermore, even if agreement is reached on such parameters, conflicting views on their interpretation could lead to numerous confrontations among States in the course of treaty implementation. These confrontations will undermine the practical feasibility of an arms trade treaty by encouraging Member States not to comply with the guidelines and standards of an arms trade treaty. To guarantee that an arms trade treaty has practical feasibility, it should establish a so-called "objective verification process" to make an authoritative determination on whether a given country is in compliance with agreed standards.

17. Who will have the authority to determine non-compliance with an arms trade treaty? Are decisions on countries to which arms should not be transferred to be made at the discretion of each country? Such discretion could undercut various countries' decisions on arms control. A licence for export to a certain country that is denied by one country should not be granted by another. This is the so-called "no undercut policy" in the field of export controls. Without this policy, an arms trade treaty would fail to achieve its basic goals.

18. Therefore, the feasibility of an arms trade treaty depends on whether the international community can make an arms trade treaty capable of achieving its fundamental goals as well as safeguarding the full level of compliance by Member States with the guidelines or standards in it. This task of making the treaty feasible is not easy. Furthermore, as far as an arms trade treaty is pursued in the form of a legally binding instrument, the initiative will face harder challenges from its opponents. Taking into account the reality of the difficulty, a politically binding instrument needs to be considered as an intermediary step towards the realization of a comprehensive, legally binding arms trade treaty. This step is in conformity with the belief of the Government of the Republic of Korea that the international community needs to take a step-by-step approach to an arms trade treaty.

Scope

19. The two main categories that need to be defined in terms of the scope of an arms trade treaty are items to be controlled and the activities relating to arms transfer to be regulated.

20. An arms trade treaty needs to cover all conventional arms, from small arms and light weapons to warships, combat aircraft and missiles, as well as ammunition for such weapons. The categories used in the United Nations Register of Conventional Arms could be a basis for further discussions on the scope of a treaty. Two contentious issues are whether dual-use items, parts, components and related technologies are covered or not, and the level of technical detail in which controlled items are to be described.

21. A detailed listing is desirable because it would reduce the risk of ambiguity, inconsistency and confusion stemming from different interpretations among countries of controlled items. However, the process of completing a detailed list of controlled items would inevitably lead to stalemates and confrontations among countries. It may be almost impossible for the international community to agree on a complete detailed list of conventional arms to be controlled by an arms trade treaty.

22. As such, a simple, generic listing is a viable second-best option. Unfortunately, however, this type of listing increases the possibility of differing interpretations

regarding which specific items under a certain category of arms need to be controlled. It also increases the probability that political and economic considerations will enter into the process of export licensing. Additionally, differing interpretations regarding which items are to be controlled would likely lead to undercutting other countries' decisions on arms export bans.

23. A decision is also needed on which dual-use items, parts, components and related technologies to include on the list of controlled items. Parts and components critical to the effective operation of fully assembled arms are to be distinguished for clarification. A complete list of parts, components and technologies to be controlled will be hard to compile through discussions among countries with varying military and defence interests. These issues are intrinsically complex. They should be further explored by the group of governmental experts.

24. The Republic of Korea believes that an arms trade treaty needs to define clearly activities related to the transfer of conventional arms to be controlled by the treaty. Does the treaty need to cover all activities related to the transfer of arms, including brokerage, re-export, transit, trans-shipment, transportation and related financial services? To control all of these activities effectively, the treaty would need to provide clear definitions of terms and of scope. Developing such definitions and scope is one of the main tasks that the group of governmental experts should address in the course of its work.

25. The Government of the Republic of Korea emphasizes the need to include brokering controls in an arms trade treaty. Numerous investigations suggest that brokering activities play a key role in facilitating the illicit transfer of arms to and from groups and persons who cannot or will not acquire them through legal means. A case in point is the Angolan civil war, which cost at least 500,000 lives and in which one third of the Angolan population became refugees. The United Nations Security Council panel report identified that arms procurement by the Angolan armed resistance group UNITA was not carried out by means of direct contact between UNITA and arms producing countries, but by orders placed with arms brokers, who then undertook to acquire arms for UNITA. These investigations justify the need to control brokering activities in the field of conventional arms.

26. However, the complex nature of brokering activities, involving such issues as extra-territoriality, could hinder efforts to develop international standards and guidelines for controlling arms brokering. The group of governmental experts on brokering of small arms and light weapons is now discussing all the issues relevant to the preparation of a brokering control mechanism. The group of governmental experts for an arms trade treaty should take note of the current work and future outcomes of the group of governmental experts on brokering. To contribute to global efforts to cope with threats posed by brokering activities, the Republic of Korea, together with Australia, recently hosted an international seminar on brokering controls.

27. Finally, overly broad controls on arms transfers could undermine the inherent right of all States to acquire legitimate arms for self-defence and security needs under Article 51 of the Charter of the United Nations. An arms trade treaty should balance the humanitarian concerns and security needs of each country.

Parameters

28. The Republic of Korea believes that one of the significant elements of an arms trade treaty is an agreement on legally binding principles which countries are required to abide by. These principles will provide States parties to this treaty with clarity regarding which types of arms transfers are and are not permitted. Numerous principles have already been set out in a number of existing agreements and declarations.

29. The group of governmental experts should further elaborate the principles that countries should use when deciding whether to allow an arms transfer. Such principles require a comprehensive approach that considers both substantive and procedural aspects.

30. First, the principles of an arms trade treaty need to be substantially agreeable to as many countries as possible, without causing political or diplomatic tensions among countries. Many NGOs from around the world argue that an arms trade treaty should crystallize commitments already assumed by States under the Charter of the United Nations, the Geneva Conventions of 1949, the two International Covenants on human rights, and other widely supported international conventions on human rights. As a fundamental principle that clearly distinguishes Government-sanctioned trade from illicit trade, NGOs tend to focus on human rights violations. For example, Oxfam argues in its research paper entitled "Assessing the feasibility, scope and parameters of an arms trade treaty: an NGO perspective" that States should not authorize international transfers of conventional arms to destinations where they are likely to be used for violations of international law, including "gross violations of international human rights law, serious violations of international humanitarian law, including the Geneva Conventions and Protocols, and crimes against humanity and genocide".

31. These kinds of principles set by NGOs are in conformity with the goals of an arms trade treaty initiative. However, it may be difficult for all countries to agree on which cases of conflict constitute "gross" or "serious violations". One result could be that even if several States decide to deny arms to a particular country on the grounds that human rights are being violated, other States could undermine this decision by taking a different interpretation of the situation and going ahead with arms exports.

32. Thus, the discretion of each country needs to be controlled. International arms embargoes led by the United Nations Security Council are useful mechanisms to this end. In fact, in recent years, the Security Council has played a very active role in preventing the proliferation of both weapons of mass destruction and conventional arms. The role of the Security Council is action-oriented, bolstered by sanction committees that establish guidelines for sanctions against target countries, to be followed by all States Members of the United Nations, and that monitor each Member State's compliance with the obligations set out in Security Council resolutions. The standards set by the committees can thus be considered the benchmarks of implementation of Security Council resolutions, including arms embargoes.

33. It could be possible to address inconsistencies in the implementation of arms trade treaty obligations similarly, through the establishment of a standing committee to guide all States in making determinations on whether to prohibit arms exports to

countries where arms might be used for gross or serious human rights violations. For example, the standing committee could issue on a regular basis a list of regions or countries to which conventional arms should not be transferred because of humanitarian concerns.

34. Second, procedural uniformity would contribute greatly to addressing loopholes created by legislative and administrative inconsistencies in the process of export licensing. The Republic of Korea recommends that the group of governmental experts conduct an in-depth investigation of export licensing procedures in each country and produce a commonly applicable set of guidelines or best practices.

Romania

[Original: English]
[27 April 2007]

Introduction

1. Romania believes that the unregulated and uncontrolled spread of conventional arms and ammunition represents a pressing issue of concern. In order to combat effectively the illegal transfer of arms and ammunition, an agreed regulatory framework for arms transfers in general is required.

2. As a supporter of the arms trade treaty initiative since its inception, Romania is fully committed to work with the States Members of the United Nations for a comprehensive and legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, as proposed in resolution 61/89, adopted by the General Assembly on 6 December 2006.

3. Romania supports the objective of establishing effective common international standards for the import, export and transfer of conventional arms, with the aim of reaching agreement on a comprehensive and legally binding international instrument.

Feasibility

4. Romania welcomes the strong and growing support among the States Members of the United Nations across all regions for establishing an instrument to prevent illegal imports, exports and transfers of arms. In this context, Romania acknowledges the importance of the non-governmental organizations' support for an arms trade treaty.

5. A large number of Member States participate in relevant international, regional and subregional initiatives to prevent, combat and eradicate the illicit trade in conventional arms, especially small arms and light weapons, and share rules and best practices.

6. In this context, Romania is convinced that an arms trade treaty, with common international standards on transfers of conventional arms, will have the solid support of the United Nations framework.

Scope

7. The impact of an arms trade treaty and its effectiveness will depend on the scope of this instrument. Romania believes that a comprehensive arms trade treaty should cover all kinds of conventional arms, including ammunition.

8. In order to eliminate all ambiguities, the arms trade treaty should contain a list of conventional arms subject to the treaty's provisions. The Munitions List of the Wassenaar Arrangement may be used as an example in the process of compilation of the list to be attached to the arms trade treaty.

9. It is also desirable, in the same spirit, that the type of operations covered by the treaty should be clearly specified. A dedicated article on the definitions of export, import and transfer of conventional arms is needed, and also for other activities like brokerage, international transit, trans-shipment, re-export and technical assistance.

Draft parameters

10. The identification of adequate criteria for responsible and legal exports, imports and transfers of conventional arms and ammunition constitutes the core of an arms trade treaty. A consensus needs to be built among exporting and importing countries — among those who are producers and suppliers and are currently developing arms industries, and those who are the consumers — in order to control the spread of conventional arms and ammunition.

11. At the same time, it needs to be guaranteed that the criteria stipulated in the arms trade treaty do not interfere with the rights of States Members of the United Nations to manufacture, import, export, transfer and possess conventional arms for self-defence in accordance with the Charter of the United Nations, including for legitimate security needs and for participation in peacekeeping operations.

12. Respect for the international obligations assumed by Member States, for international humanitarian law and human rights law, the promotion of sustainable development, the maintenance of international and regional peace, security and stability, the prevention of internal and regional conflicts or terrorist acts, and the prevention of diversion of arms are criteria that should be considered in the process of elaborating the arms trade treaty.

13. The licensing or authorization of each export, import and transfer of conventional arms, including other associated activities, should be made on a case-by-case basis and should remain within the national competence of the Member States.

14. Romania also considers that an important issue for the practical implementation of export controls is end-use verification. The international instrument needs to stipulate appropriate measures to ensure that the conventional arms reach and remain with the approved end-user. Complete and precise documentation constitutes an essential part of pre-licensing checking and post-shipment verifications.

15. Romania considers that the arms trade treaty should contain an adequate mechanism for information sharing and reporting, as well as for ensuring a transparent application of the instrument. Monitoring and enforcement mechanisms need to be included in the arms trade treaty with the aim of conferring effective

functions to the instrument. For purposes related to universalization, the arms trade treaty should provide adequate provisions for international cooperation and assistance.

Conclusions

16. Romania hopes that these initial views on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms will contribute to moving forward the discussions on an arms trade treaty.

17. The group of governmental experts, which will start its work in 2008, is a promising further step in the development of such an instrument. Romania will fully and actively support the group and all future efforts for the successful conclusion of an arms trade treaty.

Russian Federation

[Original: Russian]
[30 April 2007]

1. The Russian Federation acknowledges the seriousness of the problem of the uncontrolled proliferation of arms in the world. The international community has been working on it for a long time. During the 1990s, a number of regional and subregional instruments were concluded on this subject. In Europe, there are the Vienna Principles of the Organization for Security and Cooperation in Europe (OSCE) governing the transfer of conventional weapons, the OSCE Document on Small Arms and Light Weapons (SALW) and the European Union Code of Conduct on Arms Exports. In America, there are the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms and the Code of Conduct of Central American States on the Transfer of Arms. In Africa, there are the Protocol on the Control of Firearms in the Southern African Development Community Region and the ECOWAS Convention on SALW. During this period, agreement was also reached on arms supply criteria by the "group of six" major arms suppliers.

2. As a result, at least half the countries of the world, including leading arms manufacturers and exporters, have committed themselves to comply, in connection with arms transfers, with such rules as consideration of the situation in and around the importing country, refraining from supplying zones of armed conflict or countries where there are gross violations of human rights, etc.

3. However, experience has shown that the existence of agreed multilateral arms supply mechanisms does not prevent arms from being illegally trafficked and falling into the hands of terrorists and extremists. This concerns, in particular, sub-Saharan Africa, the Middle East region and a number of regions in Asia.

4. In this connection, it would be logical at the outset to analyse why the existing mechanisms are not sufficiently effective and precisely where they are encountering obstacles. This analysis must take place before the question of the formulation of a global instrument is raised.

5. We believe that the focus of arms control work must be efforts to combat illegal arms transfers. These are the underlying reasons why arms are reaching

illegal armed formations, terrorist organizations and Governments of States that are the subject of United Nations Security Council embargoes.

6. In the efforts to prevent an arms drain into illegal trafficking, the unresolved issues include the continuing supplies of arms to non-governmental structures and their re-export without the agreement of the original exporter, as well as the manufacture of arms without a licence or under expired licences. For example, the fact cannot be ignored that only one tenth of the world's arsenal of Kalashnikov rifles has been produced legally. The remaining 90 per cent are pirated models and unlicensed imitations which are usually trafficked illegally.

7. In the existing conditions, the United Nations rightly decided to focus the efforts of the world community on combating illegal trafficking in small arms and light weapons. However, here too, disagreements between States have made it impossible to achieve appreciable results. An obvious example is the outcome of the 2006 United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. In this connection, it is obvious that it is still more difficult to agree on global rules for legal transfers of all types of conventional weapons without jeopardizing legal trade and the right of States to self-defence. This conclusion is bolstered by the fact that a number of important players on the world arms market did not vote in favour of General Assembly resolution 61/89.

8. We hope that the analysis of the views of States will shed light on all the contradictions and complexity of the task of establishing global controls over arms transfers and will show the way to strengthening existing mechanisms in this area and possibly creating new ones.

Senegal

[Original: French]
[27 April 2007]

Preamble

1. The following points should be reflected in the preamble:

- The principles of the United Nations regarding the promotion and maintenance of peace and the various mechanisms of international human rights law and related legal instruments;
- The importance of Article 51 of the Charter of the United Nations, which establishes the inherent right of all States to individual or collective self-defence;
- The importance of arms control, disarmament and non-proliferation for the maintenance of international peace and security;
- The obligations of all States to fully comply with arms embargoes decided by the Security Council in accordance with the Charter;
- Relevant initiatives undertaken by States at the international, regional and subregional levels, including within the framework of the United Nations, and the role played by non-governmental organizations and civil society, to

enhance cooperation, in order to improve information exchange and transparency and implement confidence-building measures in the field of responsible arms trade;

- The fact that the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development;
- The growing support for concluding a legally binding instrument negotiated on a non-discriminatory, transparent basis in order to establish common international standards for the import, export and transfer of conventional arms.

Elements of the conventional arms trade that should be included in the scope of the arms trade treaty

All arms

2. The conventional arms listed in the United Nations Register of Conventional Weapons are divided into seven categories, on which there is consensus and of which Member States must report their exports and imports annually:

- Battle tanks;
- Armoured combat vehicles;
- Large-calibre artillery systems;
- Combat aircraft;
- Attack helicopters;
- Warships;
- Missiles and missile launchers.

3. Small arms and light weapons, their ammunition and other related materials covered by article 1 of the Economic Community of West African States (ECOWAS) Convention, which deals with portable arms designed to be used by several persons working together in a team:

- Heavy machine guns;
- Portable grenade launchers, mobile or mounted;
- Portable anti-aircraft cannons;
- Portable anti-tank cannons, non-recoil guns;
- Portable anti-tank rocket launchers;
- Mortars of any calibre;
- Firearms and other destructive arms or devices such as an exploding bomb;
- An incendiary bomb or a gas bomb, a grenade, a rocket launcher or a landmine;
- Revolvers and pistols with automatic loading;

- Rifles and carbines;
- Machine guns;
- Assault rifles; and
- Light machine guns.

Ammunition

4. Devices destined to be shot or projected through the means of firearms, including, among others:

- Cartridges;
- Projectiles and missiles for light weapons;
- Mobile containers with missiles or projectiles for anti-aircraft or anti-tank single action systems.

Related materials

5. All components, parts or spare parts for small arms or light weapons or ammunition necessary for its functioning; or any chemical substance serving as active material used as propelling or explosive agent.

Principles and guidelines that should govern arms transfers

6. Transfer. Import; export; transit; trans-shipment; transport; transfer of technology or funds; brokering or *any other movement whatsoever* of conventional weapons, small arms and light weapons, ammunition and other related materials from or through the territory of a State, and anything that may lead to their acquisition.

Responsibility of States

- Respect for all rules that obligate States under international law, while recognizing their legitimate defence and security needs in accordance with international norms;
- The need for States to act in accordance with domestic law, international conventions and obligations falling within the framework of the Charter of the United Nations, such as:

  (i) Binding resolutions of the United Nations Security Council such as those imposing arms embargoes:

    - The prohibition of the use or threat of use of force;
    - The prohibition of intervention in the internal affairs of another State; and
    - Resolutions on women, peace and security (resolution 1325 (2000)), children and armed conflict (resolutions 1539 (2004) and 1612 (2005)).

  (ii) The universally accepted principles of international humanitarian law;

  (iii) Any other treaty or decision by which the Member States are bound, including:

- **Binding decisions, including embargoes, adopted by international, multilateral, regional and subregional bodies to which a State is a party; and**
- **Prohibitions of arms transfers that arise from particular treaties to which a State is a party, such as the Ottawa Convention on anti-personnel mines, the 1980 Convention on Certain Conventional Weapons and its Protocols.**

7. States shall not authorize transfers that violate international arms obligations and must ensure that the arms they transfer are not used illegally and that they do not have the potential to affect adversely the stability of a region.

Respect for human rights and international humanitarian law

8. States shall not authorize the transfer of arms that are destined to be used:

- **For the violation of international humanitarian law or infringement of human and peoples' rights and freedoms, or for the purpose of oppression; or**
- **For the commission of serious violations of international humanitarian law, genocide or crimes against humanity.**

9. Brokering should be defined as work carried out as an intermediary between any arms manufacturer, supplier or distributor and any buyer or user; this includes the provision of financial support.

- **States shall register all citizens and all companies incorporated in their territory that are brokering weapons, including financial agents and transportation agents;**
- **States shall ensure that all registered brokering agents obtain an explicit authorization for each individual transaction in which they are involved irrespective of where the arrangements take place;**
- **States shall require that all arms brokering licence applications for authorization provide full disclosure of relevant import and export licences or authorizations and associated relevant documents, the names and locations of all brokering and shipping agents involved in the transaction and the transit routes and points of the arms shipments; and**
- **States shall adopt legislative and regulatory measures to punish and establish as a criminal offence the illicit brokering of weapons. States should also be requested to communicate their lists of brokers and to update them annually.**

Transparency

Information on arms and transactions

10. In a provision modelled on the ECOWAS Convention, each State should maintain a register containing all information on arms and arms transactions, such as:

- **The name and address of the shipper, the intermediary (where applicable), the consignee and the user indicated on the end-user certificate;**

- **The origin, point of departure, transit (where applicable) and destination, as well as the customs references and the dates of departure, transit and delivery to the end-user;**
- **The export, transit and import licence (quantities and batches corresponding to the same licence as well as the validity of the licence);**
- **Full details concerning the method of transport and transporter(s);**
- **The controlling agency or agencies (at point of departure, transit and entry);**
- **The nature of the transaction (commercial, non-commercial, private or public, conversion, repair); and**
- **Where applicable, the insurer and/or the financial institution intervening in the transaction.**

Recording of data

11. The United Nations Register of Conventional Weapons could serve as a repository for this information and a new register could be established for that purpose. States could also submit annual reports on arms orders and purchases and on the general implementation of the arms trade treaty.

Information exchange

12. States should put in place mechanisms for the timely exchange of information.

Monitoring and controls

13. A structure established at the international, regional, subregional or national levels could be responsible for monitoring and ensuring follow-up on implementation of the arms trade treaty.

Sanctions regime

14. In the event that the provisions of the treaty are violated, the United Nations General Assembly could propose sanctions to the Security Council.

Any other feature that might contribute to the development and adoption of an effective arms trade treaty

Composition of the group of experts

15. Ensure representativity and respect for geographical balance in the composition of the group of experts.

Draft treaty

- **Establish a national, subregional and regional consultative mechanism;**
- **Convene an international conference to consider the draft; and**
- **Provide for five-year review conferences.**

Role of civil society

16. Ensure ongoing advocacy and contributions during the drafting of this treaty.

Serbia

[Original: English]
[30 April 2007]

1. The Republic of Serbia voted in favour of resolution 61/89 entitled "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", adopted by the United Nations General Assembly on 6 December 2006, and considers that this initiative is important and achievable. The adoption of the resolution and a group of governmental experts to be established on the subject are initial steps taken to elaborate a legally binding international instrument that will regulate in a comprehensive and effective manner international export and transfer of conventional weapons.

2. Elaboration of an arms trade treaty is a sine qua non to put in place common international standards and procedures with a view to effective and full prevention of any further misuse of such arms or their uncontrolled acquisition by non-State actors.

3. We are of the opinion that the arms trade treaty should incorporate existing rules, standards and principles built into applicable multilateral, regional or other relevant arrangements.

4. We believe that the group of governmental experts to be mandated to draft the arms trade treaty at the sixty-second session of the United Nations General Assembly should be guided by the following considerations:

5. An arms trade treaty should clearly and unambiguously reaffirm the inherent right of all States to individual or collective self-defence under Article 51 of the Charter of the United Nations and it should not, under any circumstances, question the right of any State to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs.

6. The purpose of the arms trade treaty should be to regulate clearly and precisely these matters based on respect for international law, as well as to define in clear terms the rules, standards and principles that all States should be guided by in a responsible, transparent and proportionate manner in adopting their decisions on international arms transfers and on national control mechanisms ensuring effective implementation of the responsibility of States.

7. It is necessary to ensure the arms trade treaty's compatibility with the arrangements in force, including the Wassenaar Arrangement on export controls for conventional arms, whose provisions it could incorporate for the most part, especially as regards mutual notifications by States of granted and refused export/import/transit licences for these weapons. In addition, the relevant sections of the EU Code of Conduct on Arms Exports along with the parameters of other relevant documents of the United Nations and OSCE on the transfer of conventional arms, the United Nations Register of Conventional Arms, etc. should constitute the basis of an arms trade treaty.

8. In this context, an arms trade treaty should establish clear procedures for regulating transfers of arms and prevent and combat illicit arms transfers through: respect for United Nations embargoes; prevention of diversion to proscribed groups, such as those who commit terrorist acts; prohibition of transfers that contravene international legal obligations; prohibition of transfers that are likely to be used in

serious breaches of human rights or international humanitarian law or acts of genocide; prohibition of transfers that are likely to adversely affect internal or regional security or sustainable development or any other generally agreed standards.

9. Moreover, an arms trade treaty should, in addition to import, export and transfers of arms, also cover transit and trans-shipment and brokerage of all conventional arms, including loans, grants, provisional import/export or exhibitions.

10. An arms trade treaty should embody effective enforcement and monitoring mechanisms and contain measures to be taken in case of violation of assumed obligations. Therefore, it would be appropriate to set up either a permanent or an ad hoc body to verify its compliance. At the same time, such a body could serve as a point of contact for the submission of national annual reports, exchange of information, provision of expert assistance in national capacity-building, and also as a foundation for any other mechanism to be established by the arms trade treaty.

11. In order to upgrade the level of responsibility, the arms trade treaty should provide for the binding adoption of an internal compliance programme by manufacturers and exporters of conventional arms. In the absence of an effective verifiable internal compliance programme, manufacturers and exporters should not be allowed to receive licences to perform the export or import or transfer of such weapons.

12. To the extent possible, the arms trade treaty should address concerns related to end-use misuse by paying due attention to the introduction of a binding standardized form to be printed out on special paper containing a hologram for all kinds of important documents required for the import, export or transfer of conventional arms, such as end-user certificates, international import certificates, delivery verification certificates and other relevant certificates. Uniformity and compatibility of these documents should ensure the necessary level of credibility of the governmental authorities responsible for action in this field, even in States not having a sufficiently developed legislation and institutional capacity.

13. As for any other international arrangement, the group of governmental experts could, if deemed necessary, recommend that an appropriate control mechanism be put in place to verify the delivery of arms to the end-user in sensitive arms export cases.

14. It would also be advisable to examine the modalities under which the work of the group of governmental experts could be made open to representatives of those States not represented on it.

Singapore

[Original: English]
[31 July 2007]

1. Singapore supports working towards a common international standard for control of the import, export and transfer of conventional arms. In Singapore, controls for the import, export, trans-shipment and brokering of arms are currently covered under Singapore's domestic legislation. These are the Arms and Explosives Act, the Strategic Goods (Control) Act and the Regulation of Imports and Exports Act, which generally follow international best practices.

General observations

2. We recall that in the preambular portion of resolution 61/89, the General Assembly, among other things:

(a) Reaffirmed the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter; and

(b) Acknowledged the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs, and in order to participate in peace support operations.

3. As the effort to stamp out the illicit import, export and transfer of conventional arms via an international standard is only effective if all States are subject to the same standards, the application of the treaty should be all-inclusive and non-discriminatory.

4. While the instrument should include guidelines for the international transfer of conventional arms, the implementation of these guidelines should be left to national discretion.

Feasibility, scope and parameters

5. The key challenges to overcome in taking forward this initiative would be to ensure that:

(a) States are able to develop their defence manufacturing capabilities, to meet their own legitimate defence and security needs.

(b) States are able to participate in the legitimate international defence trade:

(i) To maintain and develop their industries to meet their own defence and security needs;

(ii) To exec[illegible]onal collaborative defence projects;

(iii) To i[illegible] for their legitimate defence and security needs;

(iv) T[illegible] to help other nations meet their own defence and security nee[illegible]

(c) [illegible]ents/control measures imposed by the treaty do not add signi[illegible] costs that would adversely affect the legitimate trade of [illegible]

[illegible] the knowledge and ability within their enforcement agencies [illegible]guish between legitimate and illegitimate trade of arms.

[illegible] on the extent of responsibility that falls on individual States [illegible] that have been exported may not be diverted for illicit use in the [illegible]ries have the resources to track future transfers of the arms by [illegible]

[illegible] agree to rigorous but not overly burdensome mechanisms for [illegible] enforcement. States may not have the resources and infrastructure in [illegible] onerous reporting requirements.

(g) States agree on a system that allows for transparency and accountability in their permit decisions, while protecting sensitivities involved with the sharing of such information (e.g. on refused transfers).

(h) States have the requisite domestic legislation and administrative regulations to adopt, implement and enforce the standards.

(i) States understand their legal obligations in such a legally binding treaty.

(j) Primary responsibility should lie with the States of origin (exporting States) and recipient States (importing States) for ensuring that the movement of goods under the treaty is legitimate, in view of the volume, complexities and operational challenges of policing the modern international trading system.

6. The instrument should set out clearly the common international standards with which States are bound to comply, such as those contained in the Charter of the United Nations and Security Council resolutions relevant to this subject matter.

7. The instrument should set out the basic practical mechanisms and guidance States should use when deciding on a case-by-case basis whether or not to allow a transfer.

8. The scope of items included should be easily and consistently understood by industry and enforcement agencies. A simple description of categories of arms such as that currently set out in the United Nations Register of Conventional Arms would be easy to keep current, whereas more detailed listings such as that maintained by the Wassenaar Arrangement could give rise to practical implementation difficulties. The coverage of dual-use items also presents its set of complexities. Further consideration and discussion on these issues are necessary.

9. The comprehensive internationally binding instrument should not apply to transfers that occur within the national boundaries of a State or to transfers between a State and State-owned facilities outside the geographic boundaries of the State.

Slovakia

[Original: English]
[19 April 2007]

Introduction

1. The Slovak Republic welcomes the adoption by an overwhelming majority of the States Members of the United Nations of resolution 61/89, which has set up the basis for a process that should lead to the creation of a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms.

2. Slovakia joined in co-sponsoring the resolution as the consideration and, eventually, the conclusion of an arms trade treaty represents the next logical step in doing away with the situation in which, as recognized by the United Nations General Assembly, the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development.

3. We firmly believe that the momentum created by resolution 61/89 must be fully seized and exploited in a way that would bring the United Nations membership to a successful completion of the arms trade treaty process, while carefully taking into account the principles of existing international law.

Feasibility

4. We realize the magnitude of the undertaking resolution 61/89 aspires to launch and that it will heavily depend on the measure of political will and understanding among the Member States. Nevertheless, we believe the project to be attainable and, what is equally important, very timely.

5. The vindication of the attainability and timeliness can be seen in multiple and long-standing indicators that were capped with the overwhelming passage of resolution 61/89 by the General Assembly on 6 December 2006. We take the result of the vote as an unequivocal signal that a significant number of States are ready and willing to explore the issue and take its consideration to a level where it would bring about a product that would effectively address the concerns expressed in the resolution.

6. As also recognized in resolution 61/89, there already exist a significant number of relevant initiatives, undertaken at the international, regional and subregional levels to enhance cooperation, improve information exchange and transparency and implement confidence-building measures in the field of responsible arms trade. We see those initiatives as important building-blocks that could feed their experience into the process of establishing a new global arms trade instrument. We are ready to contribute to this process through sharing standards and best practices from our region, including those contained in the 1998 European Union Code of Conduct on Arms Exports.

7. Notwithstanding the number and relevance of the international, regional and subregional initiatives launched to date, we also see the General Assembly vote as an acknowledgement of a need for concluding a comprehensive instrument that would enjoy global application and ensure that no part of international arms transfers would be carried on outside or against universally recognized rules.

Scope

8. The issue of the scope of an arms trade treaty is of central importance to the project. In order to bring about a feasible instrument — true to its mission to standardize transfers of conventional arms — its scope should apply to the field of conventional weapons in its entirety, including munitions and associated parts, technology and equipment. The categorization used in the United Nations Register of Conventional Arms can be looked at, at the beginning of the process as a basis for working out a more detailed and comprehensive list that would be included in an arms trade treaty and allow for avoiding possible ambiguities. A possible example to follow can be seen in the list used by the European Union that draws from the Wassenaar Arrangement.

9. As far as the types of transfers to be covered by an arms trade treaty are concerned, the principle of comprehensiveness should also apply. Resolution 61/89 refers to establishing common international standards for the export, import and transfer of conventional arms. In our view the language of the resolution should be

seen as sufficiently generic for taking on the full range of types of transfers and other possible activities involved, including brokering, transit and trans-shipment. The types of transfers to be put under an arms trade treaty should be those involving movement from the territory of one State to the territory of another State.

Draft parameters

10. The draft parameters of an arms trade treaty should closely reflect the rationale for establishing the instrument: to launch a treaty that would in an effective way provide common minimum standards that should be followed by all when carrying out arms transfers. In order to ensure that standards laid down by an arms trade treaty enjoy their true application, our preference lies, as stipulated in resolution 61/89, with a legally binding instrument.

11. In turn, the standards laid down by an arms trade treaty should reflect the following elementary principles: the right of all States to self-defence and to acquire legitimate arms for their self-defence and security needs; the obligation of States to promote and observe human rights and fundamental freedoms; and the obligation of States to ensure respect for the rules of international humanitarian law.

12. As the subject of an arms trade treaty should be inter-State/Government arms transfers, the treaty should contain a provision that would facilitate the parties involved sharing information needed to ensure sufficient transparency in the implementation process.

13. Thought could also be given to including provisions on a compliance mechanism so as to uphold the necessary measure of confidence in and reliability of the instrument. Emphasis should also be put on the facet of international cooperation and assistance in order to ensure full and prompt implementation of the treaty.

Conclusion

14. Slovakia stands ready to contribute actively to the process that will lead towards an arms trade treaty. We attach great importance to an effective follow-up to resolution 61/89 and are looking forward to the deliberations of the group of governmental experts to be convened by the United Nations Secretary-General.

Slovenia

[Original: English]
[24 April 2007]

Introduction

1. Slovenia is concerned about the consequences of irresponsible and illegal international trade in conventional arms. Such practices have direct impact especially on the communities that are more vulnerable in themselves with regard to human rights violations and hindered development capacities on the one hand, and peace and security on the other. It is the civilian population that is especially affected, above all its most vulnerable groups such as women and children, i.e. those that should, in fact, enjoy special care and highest protection. During the last decades, illegal trade in conventional arms has importantly contributed to the

outbreak and encouragement of armed conflicts in numerous countries, and heavily hampered the rehabilitation in the communities affected by them.

2. Slovenia upheld United Nations General Assembly resolution 61/89, adopted on 6 December 2006. It believes the adoption of this resolution represented an important step towards regulating the international arms trade. However, a truly effective change in this respect on the part of the international community would require an international arms trade treaty that would regulate and support legal trade in conventional arms and fill up the void that exists in this domain. Slovenia will continue to strive for the drafting and adoption of such a regulation within the United Nations system in the context of other relevant associations and in communication with other countries.

3. Slovenia is in favour of a universal and legally binding treaty on the arms trade that would comprehensively regulate international trade in conventional arms.

Feasibility

4. Slovenia is of the opinion that the treaty should require of the contracting parties that they adopt responsible decisions on all international transfers of conventional arms through their respective territories.

5. The treaty should clearly indicate which transfers of conventional arms are legal and which are not. For this purpose, the treaty should contain clear principles and standards, on the basis of which transactions that are not legal could be defined as clearly as possible. At the same time potential developments in this field could be taken into account.

6. Slovenia is convinced that the treaty ought to be based on general obligations deriving from documents already adopted within the United Nations. It could also be based on the principles, experience and positive practice of some of the existing international agreements and arrangements. The principles and standards of these instruments should represent the key, but not the exclusive building-block, of the treaty. Their functioning in practice also shows the potential feasibility of the treaty. Slovenia attaches particular importance to the EU Code of Conduct on Arms Exports, which Slovenia has strictly implemented since 1998 and in accordance with which any request for exports of arms and military equipment are examined and assessed by applying the eight criteria of the Code of Conduct.

Scope

7. Slovenia is convinced that the arms trade treaty must be clear and complete in terms of content and that it should regulate transfers of a wide range of products relating to conventional arms, ammunition and military equipment. For this purpose, an adequate list of military products should be drawn up. This list may be part of the text of or an annex to the treaty. However, the decision on the accuracy of the list should depend primarily upon the treaty's efficiency.

8. The list could be drawn up on the basis of types of conventional arms included in the United Nations Register of Conventional Arms and then supplemented (e.g. with light weapons, mines, rocket systems, etc.). Slovenia believes that this work could be based on the existing experience of the international community. Slovenia is therefore of the opinion that experts, who would coordinate the list of

products to which the treaty will apply, could base their work on the list adopted within the Wassenaar Arrangement, which is also implemented by Slovenia.

9. As regards the types of transfer to be regulated by the arms trade treaty, Slovenia is of the opinion that the treaty should cover all transfers of conventional arms conducted through the territories of States Members of the United Nations. This also includes transits, trans-shipments and brokering transfers. In this, the existing regional arrangements and other efforts of the international community should be taken into account.

Draft parameters

10. Slovenia believes that the arms trade treaty should include clear criteria and principles, on the basis of which countries could decide on conventional arms transfers and the related transactions. These standards and principles should be based particularly on the following general starting points:

- Respect for international obligations including respect for measures of the United Nations Security Council regarding the purchase of military weapons and equipment;
- Respect for international law, particularly human rights and international humanitarian law;
- International peace and security;
- Stability and development.

11. According to Slovenia, the transparency of the process and the awareness of both the domestic and the international public also have an important role with regard to the feasibility and implementation of arms trade treaty provisions. Therefore, the arms trade treaty should engage States to inform the domestic and international public and particularly national legislators with reports on the permitted conventional arms transactions.

12. Slovenia is convinced that the limiting role of the arms trade treaty should also be accompanied by an established mechanism of international assistance, support and cooperation between countries in export control implementation in the field of conventional arms trade.

South Africa

[Original: English]
[15 May 2007]

1. It is common knowledge that the spread of illicit small arms and light weapons has caused havoc on the African continent by feeding conflicts and facilitating their escalation, thereby leading to the killing, maiming or displacing of hundreds of thousands of innocent civilians. This is also equally true for other regions of the world.

2. The primary responsibility for controlling the flow of arms rests with the Governments that allow arms to be exported, imported, re-exported or to transit through territories under their jurisdiction or control. While States have an undisputable right to acquire conventional weapons for self-defence and law

enforcement purposes, they also have a responsibility to do everything in their power to ensure that arms transferred by them are not used to violate human rights, to undermine development, or to commit acts of terrorism. It is for this reason that South Africa supports the efforts undertaken within the context of the United Nations to establish common international standards for the import, export and transfer of conventional arms.

3. A lot of work has been done in this field internationally over the past few years. In the African context, the then Organization of African Unity adopted the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons in December 2000. In the declaration, African States indicated:

> "We express our grave concern that the problem of the illicit proliferation, circulation and trafficking of small arms and light weapons continues to have devastating consequences for stability and development in Africa. We recognize that this problem:
>
> "i. sustains conflicts, exacerbates violence, contributes to the displacement of innocent populations and threatens international humanitarian law, as well as fuels crime and encourages terrorism;
>
> "ii. promotes a culture of violence and destabilizes societies by creating a propitious environment for criminal and contraband activities, in particular, the looting of precious minerals, and the illicit trafficking in and abuse of narcotic drugs and psychotropic substances and endangered species;
>
> "iii. has adverse effects on security and development, especially on women, refugees and other vulnerable groups, as well as on infrastructure and property;
>
> "iv. also has devastating consequences on children, a number of whom are victims of armed conflict, while others are forced to become child soldiers;
>
> "v. undermines good governance, peace efforts and negotiations, jeopardizes the respect for fundamental human rights, and hinders economic development;
>
> "vi. is both one of supply and demand, transcends borders and calls for cooperation at all levels: local, national, regional, continental and international."

4. The declaration continues:

> "We therefore agree that, in order to promote peace, security, stability and sustainable development on the continent, it is vital to address the problem of the illicit proliferation, circulation and trafficking of small arms and light weapons in a comprehensive, integrated, sustainable and efficient manner through:
>
> "i. ensuring that the behaviour and conduct of Member States and suppliers are not only transparent but also go beyond narrow national interests;
>
> "ii. the promotion of measures aimed at restoring peace, security and confidence among and between Member States with a view to reducing the resort to arms;

"iii. the promotion of structures and processes to strengthen democracy, the observance of human rights, the rule of law and good governance, as well as economic recovery and growth;

"iv. the promotion of conflict prevention measures and the pursuit of negotiated solutions to conflicts;

"v. the promotion of comprehensive solutions to the problem of the illicit proliferation, circulation and trafficking of small arms and light weapons that:

- include both control and reduction, as well as supply and demand aspects;
- are based on the coordination and harmonization of the efforts of the Member States at regional, continental and international levels;
- involve civil society in support of the central role of Governments, in this regard.

"vi. the enhancement of the capacity of Member States to identify, seize and destroy illicit weapons and to put in place measures to control the circulation, possession, transfer and use of small arms and light weapons;

"vii. the promotion of a culture of peace by encouraging education and public awareness programmes on the problems of the illicit proliferation, circulation and trafficking of small arms and light weapons, involving all sectors of society;

"viii. the institutionalization of national and regional programmes for action aimed at preventing, controlling and eradicating the illicit proliferation, circulation and trafficking of small arms and light weapons in Africa; and

"ix. the respect for international humanitarian law."

5. In the Bamako Declaration, African States also strongly appealed

"to the wider international community and, particularly, to arms supplier countries, to:

"i. Accept that trade in small arms should be limited to Governments and authorized registered licensed traders;

"ii. Actively engage, support and fund the efforts of the OAU Member States in addressing the problem of the illicit proliferation, circulation and trafficking of small arms and light weapons in the continent;

"iii. Seriously consider ways to discourage and eliminate the practice of dumping excess weapons in African countries and in violation of arms embargoes;

"iv. Enact appropriate legislation and regulations to control arms transfers by manufacturers, suppliers, traders, brokers, shipping and transit agents;

"v. Enact stringent laws, regulations and administrative procedures to ensure the effective control over the transfer of small arms and light weapons, including mechanisms with a view to facilitating the identification of illicit arms transfers."

6. In January 2006, the Executive Council of the African Union endorsed the African Common Position on the Review Conference on Progress Made in the Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects. The Council also requested the Commission "to take the necessary steps towards the establishment of a legally binding instrument to prevent, combat and eradicate the illicit trade in small arms and weapons in Africa".

7. The Southern African Development Community (SADC) Protocol on the Control of Firearms, Ammunition and other Related Materials, which entered into force during 2005, commits Member States to, inter alia:

- Enact the necessary legislation and take other measures to establish as criminal offences under their national law to prevent, combat and eradicate the illicit manufacturing of firearms, ammunition and other related materials, and their excessive and destabilizing accumulation, trafficking, possession and use;
- Enact the necessary legislation and take other measures to sanction criminally, civilly or administratively under their national law the violation of arms embargoes mandated by the Security Council of the United Nations;
- Coordinate procedures for the import, export and transit of firearm shipments;
- Promote legal uniformity and minimum standards in respect of the manufacture, control, possession, import, export and transfer of firearms, ammunition and other related materials.

8. In 2005 the Nairobi Protocol and Best Practice Guidelines on Small Arms and Light Weapons was adopted by a number of East African States. In 2006, the Economic Community of West African States adopted the Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials.

9. The transfer of conventional weapons into or out of South Africa is controlled by the National Conventional Arms Control Act. The Act indicates its purpose as the following:

> "To establish the National Conventional Arms Control Committee; to ensure compliance with the policy of the Government in respect of arms control; to ensure the implementation of a legitimate, effective and transparent control process; to foster national and international confidence in the control procedures; to provide for an Inspectorate to ensure compliance with the provisions of this Act; to provide for guidelines and criteria to be used when assessing applications for permits made in terms of this Act; to ensure adherence to international treaties and agreements; to ensure proper accountability in the trade in conventional arms; to provide for matters connected with the work and conduct of the Committee and its secretariat; and to provide for matters connected therewith".

10. It is therefore clear that the international initiatives to establish common international standards for the import, export and transfer of conventional arms are in line with that which has been taking place in South Africa, Southern Africa and on the African continent. The fact that 153 States Members of the United Nations voted in favour of General Assembly resolution 61/89, appears to indicate that, like the African region, most other regions are also looking for ways in which to address issues related to the international arms trade.

11. The following constitutes South Africa's initial views on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms.

Feasibility

12. As indicated in our introduction, a lot of work has been done in the field of transfer controls with regard to the international arms trade on the African continent. This is equally true for other regions of the world, where documents such as the European Code of Conduct on Arms Exports (1998), the OSCE Principles Governing Conventional Arms Transfer (1993) and the Central American Integration System Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Material have been adopted. The above, coupled with the fact that the overwhelming majority of Member States supported resolution 61/89 indicates that an international agreement in this regard is feasible. However, the fact that some of the major producers of conventional arms appear to be opposed to or uncertain about an arms trade treaty is of course a matter of concern and will have to be addressed by Member States.

13. It is very important that the process towards such an agreement should be transparent, should allow for the participation of all and should be comprehensive. Care will have to be taken that the agreement does not become overly burdensome and there should be provision in the agreement for assistance to States parties that lack the capacity to implement its provisions.

Scope

14. It would be important that States reach a common agreement on what should be controlled, with a view to identifying and defining categories of equipment. The arms trade treaty should call on States parties to exercise control over such a list, which could include materials, technologies and activities.

15. South Africa is of the view that an arms trade treaty should cover all conventional weapons. These could be described as weapons falling within the seven categories of the United Nations Register of Conventional Arms (battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, and missiles and missile launchers) plus small arms and light weapons, munitions (including explosives) and technology for the manufacturing of conventional weapons. The possibility of the inclusion of dual-use goods related to conventional weapons would have to be explored by Member States. The possible inclusion of activities such as brokering should also be explored.

16. In order to clarify which transfers are covered by the treaty, Member States would have to agree on definitions of concepts, such as export, re-export, transit, trans-shipment and brokering.

Parameters

17. An arms trade treaty should oblige States parties to develop and enact national legislation and other measures to prevent the illicit manufacturing and transfer of conventional arms in, over and from their territories by licensing the export, re-export, transit and trans-shipment of these arms. A prerequisite for an effective

control system is to place an obligation on the control authorities of State parties to implement end-use and end-user assurances. The arms trade treaty should also call on States parties to build penalties (criminal or administrative) into their legislation to address violations in this regard.

18. It is South Africa's view that negotiators should aim to include criteria in the arms trade treaty which could provide guidance to State parties when making conventional arms transfer decisions. Such criteria should include:

- **Whether the transfer would contribute to internal repression, including the systematic violation or suppression of human rights and fundamental freedoms;**
- **Whether the transfers would be likely to contribute to the escalation of regional military conflicts, endanger peace by introducing destabilizing military capabilities into a region or otherwise contribute to regional instability;**
- **Whether the transfer would be in accordance with international law, norms and practices and the international obligations and commitments of the sending State, including United Nations Security Council arms embargoes;**
- **Whether the transfer would have an impact on sustainable development;**
- **Whether the transfer would contribute to terrorism and crime;**
- **Whether the transferred material is likely to be used for purposes other than the legitimate defence and security needs of the Government of the country of import.**

19. While important, the criteria should not be too detailed and elaborate as it is rather the principles that matter. The most important aspect relating to the implementation of any final instrument will be strict adherence to the criteria and comprehensive, accurate and regular reporting as prescribed by the instrument.

20. In order to build confidence, the treaty would have to include transparency measures and States parties would have to be required to report regularly on their international arms transfers. The existing United Nations Register of Conventional Arms could possibly serve as a model for such a reporting mechanism.

21. The treaty would also have to contain a compliance mechanism. It is recommended that the compliance mechanisms in other international instruments be considered and evaluated as potential models to be used for the arms trade treaty. Examples in this regard are the Secretary-General's mechanism for the investigation of the alleged use of chemical and biological weapons and the compliance mechanism of the Anti-Personnel Mine Ban Treaty.

22. South Africa is, furthermore, of the view that an arms trade treaty should provide for an implementation support unit that would assist States parties with their compliance with the requirements of the treaty. This would especially be important to provide States lacking in capacity with the necessary assistance to implement the requirements of the Treaty. An implementation support unit could also assist States parties with the drawing up of national legislation and the establishment of export control systems. The implementation support unit could also be the mechanism to facilitate international cooperation and assistance in this regard.

Conclusion

23. The above constitutes South Africa's initial comments on an arms trade treaty. South Africa looks forward to cooperating with other Member States in the process spelled out in resolution 61/89 and further developments aimed at the establishment of common international standards for the import, export and transfer of conventional arms.

Spain

[Original: Spanish]
[25 April 2007]

1. General Assembly resolution 61/89 of December 2006, which was adopted by 153 States, requested the Secretary-General to seek the views of Member States on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, and to submit a report on the subject to the General Assembly at its sixty-second session. In order to contribute to the Secretary-General's task, the Kingdom of Spain submits the following proposal:

Preamble

2. Spain is fully committed to the effort to bring about an international arms trade treaty. Since its inception, Spain has provided firm support in the United Nations to the proposal to draw up such a treaty and also included a reference to the treaty in the new legislation on external trade in defence material and dual-use goods that is under consideration in Spain's parliament.

3. The arms trade is increasingly globalized: components are produced and assembled in different countries and final production is often delocalized. Furthermore, there are disparities in the controls in place in the various States and the absence of truly universal control systems hinders the fight against the increasingly globalized illicit trade. (It is calculated that illicit arms trade amounts to billions of euros each year.) The existence of national and regional control systems, some of which are highly effective but which have different criteria and standards, is not enough to prevent illicit and irresponsible trade, and this has negative consequences for human rights, peace and international security. Moreover, the volume of arms transactions sometimes creates a burden on development policies.

4. For these reasons, the international community should make an effort to establish effective control of the arms trade that would protect persons and be legally binding for all. The treaty must serve as the cornerstone of our commitment to peace, respect for human rights and poverty eradication, and it must improve the control systems that already exist.

5. Licit and responsible arms trade must be used for national defence needs and legitimate law enforcement activities, and more specifically for protecting the rights and freedoms of citizens and institutions ensuring the rule of law, guaranteeing human rights and implementing humanitarian law and international legislation within the framework of the State's responsibility to promote peace. It should thus establish legally binding and transparent obligations for all States on an equal basis

and should enhance national arms control capacities. The treaty must not prevent States from creating and maintaining a defence industry to meet such needs or for exporting defence material to other States in order to enable them to meet their defence needs.

Feasibility

6. General Assembly votes that advocate the negotiation of an arms trade treaty reflect the fact that the need to regulate the arms trade and the trade in defence, police and security material that has or may have military purposes should be the object of a broad international agreement reflecting the political will of a wide majority of nations. The international arms trade treaty is a unique opportunity to adopt a legally binding instrument marking genuine progress in the area of controlling arms transfers and responding properly to current global security imperatives and civil society expectations.

7. The existence of numerous regional agreements for controlling arms transfers represents a starting point for establishing the treaty by unifying and standardizing existing regional initiatives. The treaty seems clearly feasible in the light of the existing instruments that are listed in the annex to this proposal, including the Economic Community of West African States (ECOWAS), the Central American Integration System (SICA), the Organization for Security and Cooperation in Europe (OSCE) and the Wassenaar Arrangement. The European Union has established codes and norms to regulate licit and responsible arms trade. The European Union Code of Conduct on Arms Exports and the 2005 Best Practice Guidelines for the implementation of the Nairobi Protocol are examples of the regional commitments on which the treaty should be based.

8. The foundations of the treaty are to be found in the principles, purposes and provisions of the Charter of the United Nations. Furthermore, the treaty should refer to the many important international and regional agreements that are currently in force (see annex). In establishing the treaty, it should be noted that in 2003, 191 States parties to the Geneva Conventions of 1949 undertook to make respect for international humanitarian law one of the basic criteria for evaluating decisions concerning arms transfers, and to turn these criteria into laws or national policies, and regional and international standards for arms transfers.

9. In addition, successful experiences resulting from national practices should serve as a precedent: some countries have established national institutions for controlling arms transfers and have analysed the environment in which commercial operations are carried out and conditions in the destination country. The existence of common international standards which have been incorporated into national legislation on the arms trade will simplify bureaucratic procedures, unify applicable criteria and allow commercial operations to be carried out through a single procedure, reducing the volume of work for public officials and companies.

10. In addition, numerous proposals have been developed by civil society that show increasing support for enhancing controls in the international arms trade. International campaigns, such as the Control Arms Campaign, and the local or regional initiatives undertaken by civil institutions, show that society is demanding that Governments step up efforts to prevent illicit or irresponsible arms trade through an international treaty. Moreover, the arms industry would benefit from a

transparent and coherent international framework for its activities, and this would help consolidate industry prospects.

Scope

11. In view of the aforementioned considerations concerning the arms trade, problems with controls and the detrimental effect of the excessive and uncontrolled number of arms in circulation, Spain proposes that the treaty's scope should be exhaustive and comprehensive. In addition to providing definitions of arms or establishing categories, a clause may allow for the inclusion of new arms or changes to existing arms. It is important to have a clear definition of the arms that will be included in the treaty, but this definition should not prevent the treaty from being adapted to new circumstances.

12. With regard to definitions of arms categories, Spain proposes drafting an open list that will include all types of conventional arms, from pistols and other small arms to battle tanks, armoured combat vehicles, artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, small arms and light weapons (SALW); man-portable air defence systems (MANPADS), mines, ammunition, including SALW ammunition and explosives. At the same time, the possible inclusion of the technology, parts and components used in the manufacture of such weapons should be considered in order to avoid any possible loophole in the implementation of the treaty. This is a complex question to which the group of experts should give special attention.

13. The concept of arms trade must include all commercial operations that are part of the globalized market economy and must not be limited to traditional import and export operations. In accordance with its own legislation, Spain proposes a comprehensive concept of transfers comprising the different variants of commercial operations: purchase and sale, loans, leases, donations, credits and provisional operations, including transit, trans-shipment and brokerage.

Parameters

14. The text should ensure that all transactions are submitted to a prior risk assessment that ensures that authorization is not granted if they are illicit or would have a negative impact. We believe that the regulation of international arms transfers which take place in, from or towards a State's territory, is the responsibility of that State, and this includes ensuring the trustworthiness of an operation, identifying the final destination and preventing any diversion.

15. Spain proposes the definition of common and enforceable criteria to assist Member States in deciding whether to approve an import, export or transfer, such as:

- The impact that transfers may have on respect for the international commitments of Member States, as well as their obligations under international law, obligations set out in the Charter of the United Nations and Security Council decisions, including United Nations arms embargoes; prohibitions of the use or threat of force; and the prohibition of intervening in the internal affairs of another State;
- The effect on respect for human rights and international humanitarian law in the country of final destination, in order to prevent abuses of such rights;

- **Member States shall not allow exports which provoke or prolong armed conflicts or worsen tensions or existing conflicts in the country of final destination;**
- **The prohibition of the use of arms that cause superfluous harm or unnecessary suffering and of those arms unable to distinguish between combatants and the civilian population or which may be used to perpetrate terrorist acts;**
- **The maintenance of regional peace, security and stability, so that they do not contribute to acts of aggression, genocide or crimes against humanity;**
- **Respect for treaties and the legal obligations of States, and for arms transfer prohibitions established in specific treaties to which States are parties, within the framework of the universally accepted principles of international law;**
- **The national security of States Members of the United Nations and the right to individual and collective self-defence;**
- **The behaviour of the purchasing country towards the international community, especially its stance on terrorism, the nature of its alliances and its full respect for international law;**
- **The existence of a risk that equipment may be diverted within the borders of the purchasing country or re-exported in undesired conditions, preventing the diversion of arms from licit trade to illicit trafficking;**
- **The compatibility of arms exports with the economic and technical capacity of the recipient country, in view of the fact that it is advisable for States to satisfy their legitimate security and defence needs with a minimum diversion of human and financial resources for weapons;**
- **The impact on sustainable development in order to prevent the diversion of resources required for development for weapons purposes;**
- **Cases in which arms are likely to be used for committing or facilitating the commission of violent crimes;**
- **The consideration of the national control capacity, preventing bribery and corruption, as well as ensuring the recipient country's capacity to control the final destination of arms.**

16. Implementation of the treaty will be carried out at the national level and this means that current decisions on authorizing transactions will continue to be a matter to be dealt with by States themselves independently. States should establish a transparent and verifiable implementation mechanism if they have not already done so in order to carry out effective control of the transactions covered by the treaty. States' authorization of operations, therefore, is a fundamental principle, making them responsible for the final destination of arms.

17. For the proper implementation of the treaty at the national level, consideration should be given to the establishment of an international institution to ensure its effectiveness through a mechanism agreed on by all States and by means of a process that enables an impartial, multilateral body to ensure that States parties properly carry out their responsibilities.

18. Transparent implementation will enhance the treaty's credibility. The treaty should therefore encompass specific obligations relating to transparency, requiring

States parties to submit periodic reports or statements on the effective control of transfers covered under the treaty, and this will ensure that States share information relating to authorized transfers.

19. States should guarantee the prosecution of those who violate the regulations on the arms transfer controls established under the treaty through their national legislation, imposing proportionate and deterrent administrative, civil and criminal penalties. Not all States have the same capacity to implement this type of treaty or to establish effective arms trade controls. Technical assistance for national implementation should therefore be considered within the framework of a strategy for institutional strengthening in the area of international cooperation. Through assistance programmes or other means, the international community should ensure that all States have or develop the capacity to fully implement the treaty, and it has the right to require that the treaty should be implemented by other States since cooperation among all parties involved in the process provides added value to its implementation.

20. At the same time, the treaty should include control measures to prevent non-compliance with the obligations laid down in it. In view of the fact that the import, export and transfer of conventional arms contribute to conflicts, displacement, crime and terrorism, thus undermining peace, reconciliation, security, stability and sustainable development, the treaty should establish a procedure for detecting illegal operations and adopting appropriate measures to correct them.

Sweden

[Original: English]
[27 April 2007]

1. Sweden supports the aim and objective of the General Assembly resolution 61/89, adopted by the General Assembly on 6 December 2006.

2. As stated in the ninth preambular paragraph, the absence of common international standards on the import, export and transfer of conventional arms has severe negative consequences: "*Recognizing* that the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development".

3. Sweden supports the preparation of a universal instrument that will promote legal, responsible and transparent trade in arms by ensuring that all transactions are subject to a prior assessment with the purpose of guaranteeing that the transactions will be legal and not contrary to the standards and principles in the instrument.

4. In the resolution, the General Assembly also reaffirmed "the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter" and acknowledged "the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs, and in order to participate in peace support operations".

5. Sweden wishes to stress that the manufacturing and exporting of arms place heavy responsibilities on States, such as the strict observance of international law, including human rights and humanitarian law, prudence in the dissolution of

national surpluses of arms and full commitment to tackling bribery and corruption in relation to arms transfers.

6. The instrument would not infringe on the right of States to operate more restrictive national policies. The standards in the instrument would be the minimum that States agree to apply and if they decide to do so they may apply higher standards.

7. The instrument should not hamper industrial cooperation in the defence field.

Feasibility

8. Sweden believes that an instrument is feasible, since to a large extent it would build on existing standards and principles, and notes with satisfaction the high level of support that the General Assembly resolution 61/89 received. Many of the standards and principles that an instrument could include are already part of existing international or regional legal instruments or political agreements. However, existing practices for national controls of export, import and transfer still vary, as well as the capacity to enforce controls. A comprehensive international instrument would form a common and transparent framework for States to follow. Provisions on feasible and effective monitoring and enforcement mechanisms need to be included in the instrument for the purpose of ensuring its full implementation and functioning. Therefore, the Governmental Group of Experts should also consider the issues of monitoring and enforcement, including information-sharing, and how international assistance and cooperation could contribute to the effective implementation of the instrument.

Scope

Items

9. Sweden believes that the instrument should cover all conventional arms, including small arms and light weapons, MANPADS and ammunition, as well as parts and components of the arms in question. A detailed list of agreed items should be annexed to the instrument. Consideration should be given to including related material, such as manufacturing equipment and technology, and dual-use items directly relevant to the above arms, ammunition and production technology.

Transfers

10. As is stated in the resolution, the instrument would cover exports, imports and transfers. This should include transit, trans-shipment, loans, gifts, temporary imports or exports for various purposes and brokering. The issue of whether intangible transfers of technology should be included merits consideration. Transfers should be confined to such transfers which involve arms being moved from the territory of one State to that of another State. The instrument should not cover transfers within the territory of a State and should not contain rules on how arms may be acquired, held or used within a State's territory. The instrument should cover not only State-to-State or Government-to-Government transfers, but also transfers to non-State end-users.

Parameters

11. The instrument should contain criteria for legal and responsible transfers of arms, which should be applied by States in a transparent and accountable manner. The criteria should build upon States' commitments under customary international law and existing legal international instruments, such as the Charter of the United Nations and the Geneva Conventions on international humanitarian law. Sweden believes that the criteria should cover inter alia respect for international human rights law and international humanitarian law, the maintenance of international and regional peace, security and stability, the impact on sustainable development, the prevention of internal or regional armed conflicts or terrorist acts and the prevention of diversion of arms within the recipient country or to other countries.

12. Sweden believes that effective end-use control is an essential measure to counter the illegal spread of arms. The instrument should contain appropriate references or provisions on end-use control.

Conclusion

13. Sweden hopes that these preliminary views on a comprehensive and legally binding instrument on common international standards for the import, export and transfer of conventional arms will contribute effectively to the initial discussions on such an instrument. Sweden will fully support the group of governmental experts and looks forward to its contribution and to continuing the work in this field.

Switzerland

[Original: English]
[16 April 2007]

Introduction

1. In order to prevent illegal arms transfers, legally binding, verifiable, clear international common standards and criteria, set out in one universal instrument, are necessary.

2. Switzerland recognizes the need to agree on a set of common core principles for the conventional arms trade. To realize consistent and universal controls of the arms trade, it will be essential to enhance transparency among States and to harmonize national export control policies.

3. Switzerland participates in all relevant arms control, disarmament and non-proliferation regimes, convinced that they contribute to international peace and security. Swiss arms exports legislation is in line with these international obligations. Switzerland therefore supports every effort for an effective national control of transfers of conventional arms.

4. Switzerland was one of the first sponsors of the arms trade treaty resolution of the United Nations General Assembly (resolution 61/89 adopted on 6 December 2006).

Feasibility

5. Switzerland is aware that a comprehensive legally (not only politically) binding instrument, covering all kinds of transfers, is an ambitious project. It can

build on a number of already established common principles. A joint effort is needed: all participating States should evaluate the possible negative impacts of every arms transfer and renounce such transfers if one or several of the following criteria is fulfilled:

- Transfer would lead to a violation of United Nations sanctions;
- Transfer poses a risk to peace, international security and regional stability (including a risk of proliferation to terrorists and criminals);
- Respect of human rights and international humanitarian law in the receiving State is poor;
- Respect of international law in the receiving State is poor;
- Transfer is likely to have a negative impact on development cooperation.

6. Since criteria can often be interpreted in different ways, the arms trade treaty should define what is meant by each criterion. The above criteria are part of Swiss export control regulations and practices.

7. Existing mechanisms, legally or politically binding, have not led to substantial limitations of arms transactions. Nevertheless, they demonstrate the will of States to cooperate in arms trade issues and represent an important starting point for a future arms trade treaty. To work in practice, the introduction of any new control instrument requires efficient structures to handle the mechanism. At the same time, one has to be careful not to create too complicated procedures which negate the positive effects.

8. The new instrument should therefore help the authorities and industry concerned to reduce bureaucracy.

Scope

- All conventional arms as listed in the United Nations Register of Conventional Weapons should be covered. The list of items to be covered by a new instrument could be prepared by the group of governmental experts, taking into account all existing lists of items and/or definitions in relevant instruments and might include parts and components of weapons as well as ammunition.
- Imports, exports and transfers should be subject to an arms trade treaty.
- The instrument should include "Government-to-Government" as well as "State-to-State" transfers.
- The inclusion of brokering could be considered, taking into account the final report of the group of governmental experts on SALW brokering.
- Trans-shipment should not be included, since it is difficult to handle.

9. It is essential to develop detailed definitions of the above terms (such as import, export, transfer, brokerage).

Structure of an arms trade treaty

- A future arms trade treaty should consist of a framework treaty (cf. Convention on Conventional Weapons) with additional protocols on specific categories of

conventional weapons which focus on commitments of States in respect of the international transfers of conventional arms.

- **An evolutionary clause should permit the inclusion of new issues.**
- **The detailed technical issues could be addressed in annexes to the protocols.**
- **Compatibility between existing agreements and the arms trade treaty should be assured.**

Parameters of and areas touched by an arms trade treaty

10. A future arms trade treaty should take into account the following points:

- **Clear conditions which a State has to apply when considering a transfer on a case-by-case basis. States should implement such conditions in their national licensing mechanisms in order to harmonize national export control practices.**
- **States remain free to adopt national legislation which sets higher obligations.**
- **An arms trade treaty should enhance respect of United Nations embargoes.**
- **Participation in peacekeeping operations should not be restrained by an arms trade treaty.**
- **Existing regimes of arms control, disarmament and non-proliferation should not be undermined by an arms trade treaty.**
- **Existing obligations under international law should not be undermined by an arms trade treaty.**
- **An arms trade treaty should also be in line with the United Nations international instrument for the rapid and reliable identification and tracing of illicit light weapons.**
- **Transparency/monitoring/information exchange:**
  - **Notifications: States should share information on arms transfers, approvals and denials of arms transfers.**
  - **Reporting: An annual report on arms exports should provide pertinent information (in line with the United Nations Register of Conventional Weapons, etc., in order to limit bureaucracy).**
  - **Documentation: Transfers should be supported by appropriate documentation and records of all transfers should be kept.**
  - **A verification regime would increase mutual trust.**
- **The arms trade treaty should provide for sanctions in case of breach of the treaty.**

Thailand

[Original: English]
[15 June 2007]

Introduction

1. It has been a long-standing principle and policy of Thailand to support international efforts to combat the serious threat to humanity, peace and stability caused by the proliferation of armed violence and illegal use of arms. We firmly support the process of disarmament as well as non-proliferation of all types of weapons, both conventional arms and weapons of mass destruction. Thailand is a party to international treaties and conventions on disarmament[9] and will continue to cooperate with the international community in this matter.

2. Apart from disarmament, Thailand strictly abides by international humanitarian law. It is our firm conviction that disarmament, humanitarian assistance and development have an inseparable link. Disarmament secures human security and ensures sustainable development, which in turn lead to long-lasting peace and stability. We thus support the United Nations General Assembly resolution on the relationship between disarmament and arms control, as well as other disarmament-related General Assembly resolutions.

3. In this globalized world, the consequence of illicit trade and transfers of arms on human development is one of the most significant issues on the global agenda. Hence, Thailand supports the idea of setting a common standard and practice at the global level to control arms transfers, in particular the irresponsible or illicit international transfer of conventional arms and their parts. This requires broad-based support as well as unified coordination among all concerned sectors and stakeholders.

4. Based on these principles, Thailand voted for the adoption of resolution 61/89, "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", on 6 December 2006. In accordance with the resolution, we fully support international efforts to conclude a universally accepted legally binding instrument on transfers of arms.

Feasibility

5. Taking into account current global concerns and interests at all levels to set a common standard to deal with arms trade, Thailand recognizes a certain positive ongoing momentum which may contribute to the establishment of an arms trade treaty.

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[9] *Conventional weapons*: Thailand is a party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Mine Ban Convention), the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and is considering becoming a party to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects. *Weapons of mass destruction*: Thailand is a party to the Nuclear Non-Proliferation Treaty and the Comprehensive Safeguards Agreement of the International Atomic Energy Agency (IAEA). Thailand is also a party to the Chemical Weapons Convention and the Biological Weapons Convention. In addition, Thailand is a signatory to the Comprehensive Nuclear-Test-Ban Treaty and will become a party thereto in the near future.

6. Firstly, the fact that the resolution on an arms trade treaty was adopted with 153 States Members of the United Nations voting in favour bears testimony to the political will of the majority of Member States to curb and combat illicit or irresponsible trade in conventional weapons.

7. Secondly, there already exist several legally binding or hortatory international agreements and cooperation frameworks in the field of arms control which are accepted by States Members of the United Nations. Examples of these include, in particular, the Charter of the United Nations (and related United Nations Security Council resolutions on the control and prohibition of arms transfers), the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Mine Ban Convention), the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.

8. Thirdly, at the regional level, the issue of controlling arms transfers has increasingly gained importance. In particular, the member countries of the Southeast Asian Nations Association (ASEAN) have been implementing measures under ASEAN initiatives and its framework of cooperation on disarmament, arms transfers, combating crimes and terrorism. For example, the ASEAN Ministerial/ Senior Officials' Meeting on Transnational Crime discusses the issue of arms smuggling as one of the key areas of cooperation.

9. Fourthly, the awareness, support and active role of the governmental sector as well as civil society are growing substantively. We believe that this is one key constructive element which could sustain the momentum in this matter.

10. However, the positions among Member States remain too divergent to achieve a common standard to deal with arms transfers. Factors that may obstruct the process of establishing the arms trade treaty need to be taken into account, including the different levels of national development and capacity of each Member State to implement any future legal commitments and the degree of acceptance and involvement of key players such as arms producers and suppliers.

Scope

11. At the outset, it is necessary for Member States to establish a common understanding on the scope of the arms trade treaty. There is a need to clarify the types of "weapons" and "transfers" to be covered by the arms trade treaty. These issues should be examined, taking into account the different levels of development and national capacity of Member States.

12. In this regard, the existing categories of conventional weapons defined by the United Nations Register of Conventional Arms would be useful and generally could be applied in the scope of weapons under the arms trade treaty. With particular reference to small arms and light weapons, Thailand would propose employing an official definition contained in the United Nations International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, adopted by the United Nations General Assembly in December 2005.[10]

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[10] "Small arms and light weapons" mean any man-portable lethal weapon that expels or

13. **Apart from these types of weapons, the obligations under the terms "import, export and transfers", as referred to in resolution 61/89, should be clearly defined. It is a subject to be elaborated and further discussed. In general the arms trade treaty should focus exclusively on the illicit trade in conventional arms so as to prevent these weapons from being diverted from legal trade into the black market and falling into the possession of non-State actors. It should focus on international transfers, not extending to transfers within a State's territory. The responsibilities of manufacturing States and suppliers concerning the transfer of arms should be further discussed.**

14. **The process of concluding the treaty should take a step-by-step approach, beginning with the commitment under existing regional and international disarmament agreements, such as the marking and tracing of small arms and light weapons in line with the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.**

15. **Transparency reporting is a crucial element. States need to consider whether to undertake this measure on a voluntary or compulsory basis. The national disarmament transparency report, which Member States submit to the Office for Disarmament Affairs of the United Nations, may serve as an appropriate guideline for this measure. However, in certain circumstances, transparency reporting that involves disclosing information on arms stockpiles may be a sensitive issue as it relates to national security and, as such, adequate safeguard of national security should be built into the treaty.**

16. **To ensure the effectiveness of the treaty and taking into account the wide gap in the capacity of Member States to implement the obligations, the treaty should encompass the following key aspects: cooperation and assistance between the manufacturing/exporting States and the receiving States; the exchange of experience and know-how on arms transfer controls; and awareness-raising. This will help to improve national systems of arms transfer control.**

Parameters

17. **In general, the treaty should acknowledge the following basic principles:**

- **The inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations;**
- **The right of all States to manufacture, import, export, transfer and retain conventional arms for national self-defence and national security needs, and in order to participate in international peace support operations;**

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launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive.

"Small arms" are, broadly speaking, weapons designed for individual use. They include, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns.

"Light weapons" are, broadly speaking, weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a calibre of less than 100 millimetres.

- **Applicable rules of international law, including international human rights law and international humanitarian law.**

18. The arms trade treaty should be built on established international principles, commitments and best practices, including regional frameworks which States have already participated in and committed themselves to. In this regard, it should pay attention to other existing important international agreements on disarmament, such as the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

19. Considering that reaching the agreed scope of the arms trade treaty is a complicated and painstaking task, Thailand would like to recommend that there be frequent exchanges of views among all States Members of the United Nations as well as with civil society. Apart from this, stimulating an exchange of views within regional frameworks on this issue may be a meaningful step to start the process, and the result of regional meetings could form groundwork for the establishment of the arms trade treaty.

Togo

[Original: French]
[12 June 2007]

Introduction

1. Like other countries, Togo is concerned about the anarchic proliferation of arms, which is endangering peace and security, destabilizing States and threatening their sustainable development.

2. Aware that the efforts to contain the proliferation of arms are of fundamental importance in maintaining peace and security in the world, Togo stands by its commitment to the cardinal principles of peace and harmony and supports any measure designed to bring about that end. It therefore welcomes the adoption on 6 December 2006 of General Assembly resolution 61/89 which envisages the preparation of a comprehensive, legally binding instrument to regulate the international transfer of conventional arms. This resolution reflects the commitment of the international community to combat a scourge whose devastating consequences are deplored by everyone.

3. Togo supports the principle of an arms trade treaty, as it will enable the flow of arms in the world to be regulated at the global level. It hopes that such a treaty will take into consideration the following points:

Feasibility

4. An arms trade treaty is feasible provided that it is based on existing international agreements and treaties on the subject and that it is ratified by the principal arms manufacturers.

Scope

5. The future arms trade treaty must cover all conventional arms, ammunition and spare parts, together with the associated equipment. In particular, it must cover:

- **Heavy arms;**
- **Small arms and light weapons;**
- **Explosives;**
- **The technology used to manufacture conventional arms;**
- **Arms used for internal security;**
- **Dual-use goods intended for military purposes, security or maintenance of order.**

6. The concept of arms transfer must necessarily cover:

- **Importation;**
- **Exportation;**
- **Re-exportation;**
- **Transit;**
- **Trans-shipment;**
- **Free and paid transfers;**
- **The transfer of technology.**

7. An arms transfer will not be authorized if the arms are destined to be used to:

- **Violate a United Nations arms embargo;**
- **Infringe other international, regional or subregional commitments or agreements on non-proliferation, arms control and disarmament;**
- **Endanger internal and regional security and stability;**
- **Commit aggression against another State or another people;**
- **Contribute to the uncontrolled accumulation of arms or military capacity in a region;**
- **Facilitate the commission of serious violations of human rights, international humanitarian law, genocide or crimes against humanity;**
- **Undermine the rights and freedoms of individuals and populations;**
- **Commit violent or organized crimes or facilitate the perpetration of such crimes;**
- **Promote nationalist, racial or religious hatred;**
- **In the country of final destination, cause tension which leads to or prolongs armed conflicts or exacerbates existing tension;**
- **Commit acts of terrorism or provide support to terrorism;**
- **Support a militia or armed opposition;**
- **Achieve goals other than the satisfaction of legitimate self-defence and security needs in the recipient country;**
- **Prevent or hold back sustainable development;**

- Be re-exported to unauthorized users or to the illicit market;
- Give rise to acts of corruption.

8. The arms trade treaty should also provide for the possibility of limiting the supply of arms, ammunition and spare parts in areas of instability and of preventing diversion.

Parameters

9. Transfer modalities and conditions

(1) The arms transferred should bear reliable markings.

(2) The certificate of final destination should include the following information:

- The name and address of the sender, of any intermediary, of the recipient and of the end-user;
- The origin, the points of departure and transit, the customs references, and the dates of departure, transit and delivery to the end-user;
- The export, transit and import licences;
- The type of transaction (commercial or non-commercial, private or public, transformation, repair);
- The reason for the transfer (purpose);
- A description of the arm (type or model, calibre);
- Its quality;
- The name and location of the former and new owners;
- The date of registration.

Transparency of arms transfers

10. Transparency is a prerequisite for establishing or building trust between States and hence for encouraging cooperation between them. It is regarded as a guarantee of honesty. Transparency necessarily implies:

- The submission to the United Nations of national reports on arms transfers;
- The annual publication of national reports;
- The keeping of national and world registers on arms transfers.

The establishment of a control mechanism

11. The role of the mechanism will be to monitor implementation of the treaty by the States parties and to impose penalties in cases of failure. It would also be of interest to appoint a special rapporteur for each country who would deal with matters involving arms transfers and would prepare regular reports for submission to the United Nations.

Building national capacity, especially in the case of the developing countries

12. Control over arms flows is sometimes rendered difficult by the facility with which they can be concealed, the permeability of borders and the inadequacy of public resources. Accordingly, the treaty should put special emphasis on strengthening structures and upgrading the skills of staff working in the customs, security, inspection and trade sectors. Emphasis must also be placed on the training of specialists in stockpile management and security of the stocks held.

Strengthening of subregional, regional and international cooperation in the exchange of information and experience

13. Multinational action is necessary, given the transborder character of arms flows. States must combine their efforts on two fronts, supporting and facilitating efforts at the national level, on the one hand, and ensuring coordination, complementarity and synergy of efforts at the global, regional and subregional levels, on the other.

Support to educational activities

14. Since prevention is better than cure, the treaty should promote programmes to educate, inform and sensitize with regard to all aspects of the arms trade.

Role and responsibility of the States parties

15. Each State must be in a position to exercise effective controls over local production, in order to avoid overproduction and anarchy in the arms trade.

Role and accountability of manufacturers and sellers

16. With a view to preventing the illicit trading of arms, the treaty should place particular emphasis on the accountability of manufacturers and sellers.

Conclusion

17. Togo reiterates its congratulations to the General Assembly on its welcome initiative aimed at controlling the arms trade and hopes that the process initiated will bring great benefit to the whole of humanity.

18. To this end, our country, which intends to play a major role in the undertaking, is ready to participate actively at every stage of the process.

Trinidad and Tobago

[Original: English]
[27 April 2007]

1. Trinidad and Tobago views the adoption of United Nations General Assembly resolution 61/89 on 6 December 2006 as an initial step towards the conclusion of an arms trade treaty. Such a treaty would establish a set of common standards and rules for the import, export and transfer of small arms and light weapons.

2. Trinidad and Tobago subscribes to the following limitations placed on States in relation to SALW under international law:

- Under international human rights law and, in particular, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, States have a duty to protect the right to life, liberty and security of the person, as well as the responsibility to maintain public safety and social peace. States are therefore not only responsible for the actions of their agents (e.g., military and law enforcement) but they also have a duty to prevent patterns of abuse committed by private persons, whether or not they are acting under the control of the State. This standard therefore requires States to erect minimum safeguards and controls on the ownership and use of guns.
- International law also limits the freedom of States to transfer weapons, if they are likely to be used in contravention of international law. States therefore have a responsibility to limit the quantity of imports, as reflected in the Disarmament Commission's 1996 guidelines for international arms transfers.
- States have a legal obligation to abide by embargoes on the transfer of weapons decided upon by the United Nations Security Council and a duty to implement measures to ensure that persons within their jurisdiction also comply with these embargoes.
- States have an obligation not to aid or assist another State in breaching international law.

Weaknesses and limitations in the international regime on misuse and transfer of weapons

3. Trinidad and Tobago finds merit in the position adopted by the Centre for Humanitarian Dialogue (2006) which noted that there exist several limitations which prevent the doctrine of State responsibility and the principles of international criminal law from effectively sanctioning States and individuals who transfer weapons likely to be misused. The Centre also noted that individuals who carry out arms brokering activities still have a great deal of leeway to divert weapons to illegal destinations. Their activities remain largely unregulated by States, and even where national regulations exist there are important gaps or loopholes that make it possible for this lucrative business to flourish. Trinidad and Tobago agrees that weak definitions, inherent subjectivity in international law and limited enforcement mechanisms have undermined the ability of existing international law to adequately protect human security in relation to the issue of small arms.

4. The United Nations Programme of Action on small arms agreed to in 2001 does not clearly enumerate transfer criteria but rather calls on States to "assess applications for export authorizations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with the existing responsibilities of States under relevant international law". Therefore, although the aforementioned United Nations Programme of Action is global in scope and has helped build wide consensus and momentum around some broad principles and measures to reduce armed violence by controlling small arms and light weapons, its principles are not legally binding.

5. It is as a consequence of the above limitations and gaps in the international regime that Trinidad and Tobago views the proposal for an arms trade treaty as a positive development. We agree with the principle of State responsibility and that States which supply weapons must be held accountable for those sales by the

international community. The various efforts by multilateral and regional bodies towards ratifying a binding agreement on arms control have not effectively reduced the discrepancies in international, regional and national codes which continue to foster irresponsibility in arms transfers.

6. Trinidad and Tobago is cognizant that the arms trade treaty is intended to provide clear, fair and common-sense standards which would place arms transfers under the jurisdiction of both national and international law. We, however, recognize that the arms trade treaty would not impose a completely new legal framework on State behaviour, but would provide greater certainty to existing rules of international law through the force of a binding worldwide agreement.

7. Trinidad and Tobago identifies with the following global principles of the arms trade treaty:

- Responsibilities of States. All international transfer of arms must be authorized by a recognized State and carried out in accordance with national laws and procedures that reflect, at a minimum, States' obligations under international law.
- Express limitations. States shall not authorize international transfer of arms that violate their expressed obligations regarding arms under international law.
- Limitations based on use or likely use. States shall not authorize international transfer of arms where they will be used or are likely to be used for violations of international law.
- Factors to be taken into account. States shall take into account other factors including the likely use of arms, before authorizing an arms transfer.
- Transparency. States shall submit comprehensive national annual reports on international arms transfers to an international registry which shall publish a compiled comprehensive international report.
- Comprehensive controls. States shall establish common standards for specific control mechanisms.

The impact of small arms and light weapons on Trinidad and Tobago

8. The Caribbean Community (CARICOM) Regional Task Force on Crime and Security has noted that illegal firearms are considered to be the single most significant instrument of crime leading to public fear. In Trinidad and Tobago, illegal firearms are integrally linked to the drug trade and have evolved as a major and independent category of transnational criminal activity. Instances of the use of small arms and light weapons in the commission of criminal acts in Trinidad and Tobago are considered to be on the increase in a growing number of areas, among these, drug-related violence, male dominated gang warfare with serious implications for the female population, youth violence even in schools, organized crime, insurrection and random street crimes against private citizens.

9. Trinidad and Tobago is a non-producer of firearms and the prevalence of firearms can only be attributed to the trans-shipment activities occasioned by the phenomenon of illegal diversion. As a consequence, illicit small arms and light weapons enter Trinidad and Tobago surreptitiously at authorized as well as non-official ports of entry.

10. Trinidad and Tobago is fully cognizant of the deleterious potential of the illicit movement of small arms and light weapons, including the possible negative impact on the economy precipitated by a loss of investor confidence; adverse effects on youth at risk, and this includes victims as well as offenders; the fragmentation of communities; compromises to personal, domestic and regional security; the further fuelling of the drug trade; and the overall rise in both the incidence and lethality of criminality.

11. When Trinidad and Tobago subscribed to the 2001 United Nations Programme of Action on Illicit Trade in Small Arms and Light Weapons in all its Aspects, there was a common consensus that transfer controls should be included in the Programme of Action. Trinidad and Tobago recognized that the international arms trade is dangerously out of control and that these irresponsible arms transfers can in fact fuel the incidence of human rights abuses and serve as a catalyst for conflict and for the prolonging of wars at immense human cost.

12. Trinidad and Tobago is of the view that the primary responsibility for the control of the flow of arms rests with Governments, whether or not they are manufacturers of arms and whether or not they engage in the import, export, re-export or transit of arms. Trinidad and Tobago also acknowledges the right of States to acquire weapons for responsible law enforcement, having regard to the universal principles governing human rights and civil liberties.

13. Trinidad and Tobago acknowledges the broader responsibilities and legal obligations of countries to ensure that transferred arms are not ultimately delivered for use in human rights violations, for breaches of humanitarian law and for hampering economic growth and development.

14. The commitments made by States under the United Nations Programme of Action on Small Arms and Light Weapons provide a political mandate to discuss and develop international standards on transfers in accordance with "existing obligations of States under relevant international law".

15. The proposed arms trade treaty, however, represents a coherent response to State commitments and a consolidation of their current obligations under international law. Such a framework would in effect provide a universal standard that would prevent arms which are being transferred from falling into the wrong hands.

16. Accordingly, Trinidad and Tobago supports the initiatives aimed at agreeing to a set of global principles on international arms transfers consistent with responsibilities of Governments under relevant international law and the setting up of an effective and efficient process to develop these global principles on international arms transfers into a legally binding international instrument.

Turkey

[Original: English]
[4 May 2007]

Feasibility

1. As the risks, challenges and threats to security and stability in the twenty-first century have been developing a more complex and multifaceted character, arms

control, disarmament and non-proliferation issues are being put into a broader perspective. These issues are no longer solely related to the national security of States, but also have a direct impact on the safety and well-being of human beings. The acquisition and illegal use of arms and weapons by terrorists and criminals pose a complex set of risks and threats to the security of States, as well as that of citizens.

2. It is an established fact that terrorism and organized crime are closely connected to one another. One aspect of this connection is arms trafficking and smuggling. Terrorists use them as a means not only to carry out their brutal acts, but also to finance these acts. Therefore, it is no coincidence that the United Nations Global Counter-Terrorism Strategy, which was adopted by Member States on 8 September 2006, calls for strengthening coordination and cooperation among States in combating crimes that might be connected with terrorism, including illicit arms trade, in particular of small arms and light weapons, including man-portable air defence systems. The Global Strategy also calls for the stepping up of

> national efforts and bilateral, subregional, regional and international cooperation, as appropriate, to improve border and customs controls, in order to prevent and detect the movement of terrorists and to prevent and detect the illicit traffic in, inter alia, small arms and light weapons, conventional ammunition and explosives, nuclear, chemical, biological or radiological weapons and materials, while recognizing that States may require assistance to that effect.

3. It is every State's responsibility to protect its citizens from the danger posed by the illicit trafficking and unauthorized use of arms and weapons. On the other hand, strong cooperation and coordination is also essential in order to properly fight against and eliminate this threat, owing to its transboundary nature.

4. As stipulated in resolution 61/89, each country's inherent right to individual and collective self-defence should be respected. To this end, the arms trade treaty should not prejudge the legal trade of arms and weapons to meet the legitimate defence needs of States. On the other hand, it should assure that States adhere to universal norms, values and principles, and fully respect and fulfil their obligations that emanate from various international and regional politically and legally binding instruments.

5. The arms trade treaty should not conflict with or diminish the importance of existing documents. On the contrary, the aim is to provide a legally binding instrument that would complement and strengthen ongoing efforts and existing instruments. The arms trade treaty would set out universal standards that would cover all aspects of the import, export and transfer of conventional arms that are partially covered elsewhere, internationally, regionally or nationally. A unified response by all the States is what is needed and, in this respect, the arms trade treaty could and should provide guidance for States to respond to risks and threats as they evolve.

6. In addition to the universal norms and standards, concrete and effective mechanisms for implementation should be the underlying aim of the arms trade treaty negotiations. These mechanisms should cover a broad range of aspects pertaining to the arms trade.

Scope

7. Security is indivisible and therefore the treaty should reflect a holistic understanding. Leaving out one or some of the categories of conventional arms will create loopholes that could easily be abused by terrorists and criminals and would, in the end, upset the overall objective of the treaty.

8. With this understanding, due attention should be given to the processes that take place prior to import, export and transfers, although resolution 61/89 focuses on establishing common standards for the import, export and transfer of conventional arms. In other words, the whole cycle, starting with manufacturing, marking and record-keeping and ending with management of stockpiles and destruction of surpluses, should be taken into consideration.

9. The treaty should cover the following categories:

- **All categories set out in the United Nations Register of Conventional Weapons;**
- **Small arms and light weapons (SALW);**
- **Man-portable air defence systems (MANPADS);**
- **Ammunitions, explosives and landmines;**
- **Components;**
- **Technology designed for the manufacture of the above.**

10. This list, however, is not an exhaustive one. States should pursue a comprehensive, flexible and a forward-looking approach that would permit evolving situations to be addressed in the light of technological changes in the future. Moreover, the main focus should be on those categories that are most suitable for use for terrorist and criminal purposes.

11. Owing to the comprehensive character of the arms trade treaty, norms and principles set out in other international, regional and bilateral instruments, as well as experience and best-practices gained from their implementation, should be taken into consideration. While the relevant aspects contained in those instruments should be covered, it should be sought to devise more efficient and up-to-date mechanisms. Existing documents and instruments that should be taken into account, among others, are the following:

- **The Charter of the United Nations;**
- **The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which may be Deemed to be Excessively Injurious or to Have Indiscriminate Effects;**
- **The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction;**
- **The 1996 United Nations Guidelines for International Arms Transfers;**
- **Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (2001);**

- United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001);
- OSCE Principles Governing Conventional Arms Transfers (1993);
- OSCE Document on Small Arms and Light Weapons (2000);
- The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual Use Goods and Technologies, in particular the 2002 Best Practice Guidelines for Exports of Small Arms and Light Weapons and the 2003 Elements for Export Controls of Man-Portable Air Defence Systems;
- EU Code of Conduct on Arms Exports (1998).

Parameters

12. The arms trade treaty, drawing on, and when needed, further elaborating the existing arms control and trade regimes at the international, regional and bilateral levels, the arms trade treaty will put into effect a legally binding mechanism on a global scale.

13. However, the mechanism to be developed by the treaty should not undermine legal production and legal trade that is carried out in order to meet legitimate security and self-defence needs of States. Moreover, it should be assured that the mechanism and its inherent measures will be implemented equally by and towards all States on the basis of the principles of openness and transparency.

14. The transactions carried out by private firms that are active in the arms trade should be in conformity with their national legislation and with international norms and standards.

15. Security measures should be developed for implementation in cases where State authority is weakened or absent.

16. The main focus of the arms trade treaty should be prevention of the acquirement of arms and weapons by non-State actors. Legal trade and transfer of legally manufactured arms and weapons are not targeted by the arms trade treaty. Rather, it should identify ways and means by which these arms and weapons fall into the hands of terrorists and criminals. Therefore, measures addressing non-State actors will be of crucial importance. Moreover, certain standards should be established in order to discourage and even to eliminate transfers and the issuing of licences that would be likely to support and encourage terrorism and facilitate organized crime.

17. In addition and complementary to the efforts to combat terrorism in the domain of the arms trade, States should legally commit themselves to following certain criteria while carrying out arms trade. Common criteria to be taken into consideration during export and in issuing licences and end-user certificates should be introduced that would include:

- Respect for human rights and fundamental freedoms;
- Existing tensions and armed conflicts in and around that country;
- Non-compliance with international obligations and commitments on the non-use of force, non-proliferation, arms control and disarmament;

- **The legitimate self-defence and internal security needs of the country;**
- **The nature and cost of the arms in relation to legitimate security and defence needs and to the diversion of human and economic resources to armaments;**
- **The requirements of the country to be able to participate in peacekeeping and other measures in accordance with decisions of the United Nations and other organizations.**

18. Although adherence to United Nations arms embargoes is a legal responsibility for all States, the measures in case of breach of these embargoes have not yet been identified by the international community. One aspect of the arms trade treaty should be filling this loophole and identifying measures in the case of breach of United Nations arms embargoes.

19. The effectiveness and strength of the arms trade treaty will depend on the elaboration and implementation of a feasible implementation mechanism. States should take on certain responsibilities and implement measures that would regulate arms trade. This mechanism should introduce common standards on:

- **Record keeping;**
- **Marking and tracing;**
- **Licences and end-user certificates;**
- **Control over brokering;**
- **Storage and surplus management.**

20. This mechanism should also include an information exchange system that would ensure transparency. Information exchange on imports, exports and transfers, as well as providing relevant information on national legal regulations on trade and brokering activities and storage and surplus management, would provide the international community with due capability to scrutinize the movement of arms and weapons on a global scale.

21. The implementation mechanism should also cover the following aspects:

- **Accountability. States that are carrying out arms trade should be accountable vis-à-vis their legal responsibilities emanating from the arms trade treaty;**
- **Verification and inspection. A solid mechanism to ensure that States abide by the Treaty provisions;**
- **Enforceability. Measures in the case of a breach of treaty provisions.**

22. The international community is in a need of even more cooperation on certain aspects of the elimination of illicit trade and trafficking. Therefore, the arms trade treaty should also encourage States to cooperate for effective customs control and border management. Regular exchange of information and experience among law enforcement bodies, as well as expert meetings would contribute to this aspect. Moreover, regional and bilateral arrangements and agreements on customs cooperation could be encouraged.

23. When necessary, assistance to States in fulfilling their treaty obligations and implementation commitments should also be considered within the treaty. Training

courses could be organized both on specific implementation issues and on general aspects of the arms trade.

United Kingdom of Great Britain and Northern Ireland

[Original: English]
[12 March 2007]

Introduction

1. The United Kingdom, working closely with other supporters, has led calls for a global legally binding instrument on the trade in conventional arms and, with Argentina, Australia, Costa Rica, Finland, Japan and Kenya, co-authored United Nations General Assembly resolution 61/89. We were greatly encouraged by the high level of international support the arms trade treaty resolution received at the United Nations on 6 December 2006. We believe that this indicates that there is overwhelming support among Member States for a concerted effort to take forward this important initiative.

2. In adopting the resolution, the General Assembly:

- Reaffirmed the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter;
- Acknowledged the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs, and in order to participate in peace support operations;
- Recognized that the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development;
- Recalled the obligations of all States to fully comply with arms embargoes decided by the Security Council in accordance with the Charter;
- Reaffirmed respect for international law, including international human rights law and international humanitarian law, and the Charter.

3. Currently standards for national controls of the international trade in conventional arms vary greatly. Some States have highly developed transfer controls and systems in place to enforce them stringently. Others have good controls on paper, but have weak enforcement practices; while some have, in practical terms, no real controls at all. This means that, given the international nature of the arms trade, and the ease which arms can be transported, today there is no universally effective way to prevent irresponsible or illegal arms transfers, such as those in breach of international or regional embargoes. This situation will persist as long as the existing commitments of States are not clearly set out in one comprehensive instrument and as long as the standards they agree, and are expected to abide by, are not clearly elaborated in a transparent universal framework for all States to follow.

4. In this context the United Kingdom suggests that the key goals in taking forward this initiative should be to ensure that:

- States are clearly aware of, understand and adhere to their existing international commitments, which are currently set out in a range of different instruments and under customary international law, to control international transfers of conventional arms;
- States adopt and implement standards to prohibit arms transfers which will:

  Provoke or prolong armed conflicts, or exacerbate existing conflicts;

  Aid the commission of human rights abuses;

  Aid the commission of serious violations of international humanitarian law;

  Destabilize countries or regions;

  Undermine sustainable development, including ensuring the least diversion for armaments of the world's human and economic resources;

  Allow arms to flow from the legitimate to the illicit market;

  Undermine the establishment and maintenance of international peace and security;

- In the conduct of the arms trade States subscribe to the highest standards of good governance, including the need to tackle bribery and corruption;
- States maintain control of the flow of arms into and out of their territory by establishing and implementing national legislation, with penalties for breaches of this legislation;
- States, if they wish, are able to participate in the legitimate international defence trade:

  To maintain and develop their industries to meet their own defence and security needs;

  To execute international collaborative defence projects;

  To import arms for their legitimate needs;

  To export arms to help other nations to meet their own defence and security needs.

5. A failure to address the existing gaps in the control of this international trade would be a failure to take responsibility for the arms we allow to be traded into and out of our States or by our citizens. The United Kingdom firmly believes that States that wish to do so should be able to develop their own defence manufacturing capabilities, to meet their own legitimate defence needs and for export, and that this trade can pay dividends in ensuring, promoting and maintaining peace and security. However, it is also clear that the right of States to self-defence is accompanied by the responsibilities of States to prevent threats to peace and to ensure respect for international law, including human rights and humanitarian law.

6. We also believe that the vast majority of those involved in the arms trade act responsibly and ensure their goods are only supplied to legitimate end-users. But there are traders who will sell to any buyer for any use, regardless of whether this would be in breach of any existing national and international commitment. These unscrupulous traders are more easily able to do this because of significant differences between national controls and implementation mechanisms, which exist

in part because of the lack of internationally accepted standards of control backed by an overarching legally binding international instrument.

Feasibility

7. In simple terms, the main limits on the feasibility of a comprehensive legally binding instrument are:

- The will of a wide range of States to enter genuinely into and conclude a negotiation on an instrument which meets their needs and the needs of States approaching the issue from a different perspective, i.e. the needs of customers and suppliers;
- States being able to agree a rigorous but not overly burdensome mechanism for monitoring and enforcement;
- Ensuring States have the capacity, and the commitment, to implement effectively the provisions of an instrument.

8. Many of the fundamental principles which an instrument may include are already set out in customary international law and existing international agreements, such as:

- The Charter of the United Nations (and associated Security Council resolutions controlling and prohibiting arms transfers) and common article 1 of the Geneva Conventions (in particular the obligation to uphold international humanitarian law), by which States are already bound.
- Other legally binding obligations contained in:

  The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects;

  The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.
- Politically binding guidelines, including:

  The 1991 P5 Guidelines for Conventional Arms Transfers;

  The 1996 United Nations Guidelines for International Arms Transfers;

  The 2001 United Nations Programme of Action on Small Arms and Light Weapons, including specifically section II, paragraph 2.

9. This indicates that concluding an instrument is feasible since it builds upon established principles. Similarly, there are a growing number of other agreements relating to the arms trade, such as:

- The 1993 OSCE Principles Governing Conventional Arms Transfers;
- Politically binding rules such as those set out in the 1998 European Union Code of Conduct on Arms Exports;
- The 2000 OSCE Best Practice Guideline on Small Arms and Light Weapons;
- The 2001 Protocol on the control of firearms, ammunition and other related materials in the Southern African Development Community (SADC);

- The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, in particular the 2002 Best Practice Guidelines for Exports of Small Arms and Light Weapons, and the 2003 Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS);
- The 2005 Nairobi Protocol and Best Practice Guidelines on Small Arms and Light Weapons;
- The 2005 Central American Integration System (SICA) Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Material;
- The 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons.

10. These also indicate that there is a growing realization of the need for States to conclude and implement agreements covering the trade in conventional arms. But in considering feasibility it should be noted that not all States are party to such agreements, and those agreements that do exist do not all cover all aspects of conventional arms transfers, hence the need for a global instrument.

11. Ongoing work now, whether it is carried out bilaterally or as part of coordinated international interventions, will continue to help ensure States have the capacity to implement an eventual instrument. While an instrument may take some years to become a reality, it is vital that this capacity-building work continues, whether it is focusing on putting in place national legislation and administrative regulations, or on improving national enforcement, such as through more rigorous customs procedures. This work will enable States to improve their controls now, but will only be fully effective when they can be confident that other States are following the same high standards as they have adopted, which will only be assured when a global instrument is agreed and implemented.

Scope

12. The two main issues that need to be defined in the scope of an instrument will be the items and transfers to be covered. Bearing in mind the need to ensure that transfers do not provoke or exacerbate conflicts, aid the commission of human rights abuses or of serious violations of international humanitarian law, undermine sustainable development, or allow arms to flow from the legitimate to the illicit market, the United Kingdom believes that an instrument must cover all conventional arms, ranging from handguns and other small arms and light weapons (SALW), to main battle tanks and other armoured fighting vehicles, combat aircraft (including helicopters), warships and conventionally armed missiles. To ensure that such arms are not used in breach of international commitments, an instrument should also cover munitions for the equipment listed above, including ammunition for SALW and larger weapons, the technology to produce and maintain such equipment, and their parts and components.

13. Noting that views have been sought on a comprehensive instrument, and while recognizing that coverage of dual-use items is a complex issue, the United Kingdom believes it would also be desirable for the group of governmental experts to consider, in some detail, coverage of dual-use items directly relevant to the above arms, munitions and production technology.

14. Whatever the scope of the items to be included, coverage and controls will need to be set out in a way which can be easily and consistently understood by industry and by those responsible for regulating the arms trade. A simple generic description of the categories of arms, possibly stemming from the categories of the United Nations Register of Conventional Arms (with the addition of other areas covered by an instrument, e.g. ammunition, parts, components, technology to produce, etc.), would be relatively easy to keep current, but might leave open the possibility for confusion over whether an item is covered or not. A detailed listing, like that used by the European Union (which is drawn from the listing maintained by the Wassenaar Arrangement) would help remove the risk of ambiguity, but whether such a listing would in practical terms meet the needs of all States will need further consideration. The United Kingdom is open to suggestions on how best this issue may be addressed to meet the needs of all States.

15. The range of transfers to be covered by an instrument will also have to be clearly defined. The resolution refers to import, export and transfers. An instrument will have to make clear what is meant by these terms (making reference to existing norms). An instrument should also cover other activities, including brokering, transit and trans-shipment, loans, gifts and temporary imports/exports for demonstration or exhibition. It will be important in this context to take note of the current work of the group of governmental experts on brokering, which is due to report this summer.

16. The United Kingdom suggests that an instrument should be confined to transfers which will involve arms or related technology moving from the territory of one State to that of another State, including Government-to-Government or State-to-State transfers. An instrument should not cover transfers within a State. An instrument should not impose restrictions on how arms may be acquired, held or used within a State's territory. An instrument should also not place overly burdensome controls on the movement of privately owned antique or sporting firearms for sporting or cultural purposes. However, an instrument should set out the issues which States must consider before deciding whether to permit a transfer, including the eventual use of the item in question (see parameters below).

Parameters

17. One of the key elements of an arms trade treaty will be an agreement on establishing legally binding international standards which States agree to follow. Some of these are already set out in a number of different agreements. Others need further elaboration.

18. The first step in this process will be to collate and set out clearly the existing standards with which States are bound to comply, including those which set out clear prohibitions on the supply of arms. For example, commitments under:

- The Charter of the United Nations, including the need to comply with Security Council resolutions;
- The Convention on the Prevention of and Punishment of the Crime of Genocide;
- The Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment;
- The International Covenant on Civil and Political Rights;

- **The International Covenant on Economic, Social and Cultural Rights;**
- **The Geneva Conventions and associated Protocols.**

19. Stemming from these international commitments the United Kingdom would suggest that an instrument needs to set out clearly the conditions which States must apply when considering a transfer. The United Kingdom would suggest that the key considerations for importing and exporting States and for other States involved in the transfer of an item, while bearing in mind the right of all States to arm themselves for self-defence, must be whether the proposed transfer will:

- **Breach any international or regional commitments;**
- **Be diverted to a use which would breach any international or regional commitments;**
- **Be used in the commission of serious violations of international humanitarian or human rights law;**
- **Be used in the furtherance of terrorist acts;**
- **Be used in the commission of violent crimes;**
- **Be used to provoke or exacerbate internal or regional conflict;**
- **Be used to destabilize countries or regions;**
- **Seriously undermine the economy or hamper the overall development of the importing State;**
- **Be diverted to one of the above uses.**

20. In each of these cases, unless a State is satisfied that a potential transfer would not breach international commitments or any of the conditions set out above, the State should be required to refuse permission for the transfer. It should also be made clear that such standards are the minimum that States agree to apply, and that if they decide to do so they may apply higher standards.

21. In further considering these points it is important to set out clearly the measure of certainty States need to have in the legitimate nature of a proposed transfer. In the case of clear commitments, such as United Nations embargoes, the standards are unambiguous. But in deciding if they can be satisfied that an item will not be used in one of the stated negative ways, States will need clear, easy to understand guidance to be set out in an instrument to facilitate implementation of controls. This may need to be set out for each individual area of concern. For example, it may be unreasonable to expect a State to refuse to allow a transfer because it cannot be satisfied. Arms will not be used in the furtherance of terrorist acts just because there has been one terrorist incident in the State in question. But if a State was aware that the intended recipient was a known terrorist grouping (for example those identified by a relevant United Nations body) or a trader associated with procurement for terrorist groupings, it should clearly not approve the transfer.

22. To ensure States can be confident that agreed standards are adhered to, they must be applied in a transparent and accountable manner. There will therefore need to be a requirement that States share adequate information on the transfers that they approve. A mechanism will be needed to ensure this information is available in a timely manner and accessible to all States. It would also be helpful for States to

share information on transfers that they do not allow. Thus if one State refuses a transfer, others would be able to take note of this if they receive an application for permission to carry out a similar transfer. The United Kingdom recognizes that sharing information on refused transfers will be particularly sensitive, and another complex issue for the group of governmental experts to consider.

23. The United Kingdom is convinced that to have a real impact an instrument will need to include an effective mechanism for enforcement and monitoring, building on an information-sharing mechanism (see above), and including provision to look into and address any alleged breaches of commitments. An instrument will also need to set out measures to be taken if a State is in breach of commitments. This should be a visible process, designed to investigate in a timely manner any alleged breaches, but also designed to avoid unnecessary investigation of frivolous suggestions of wrongdoing. In this context consideration should also be given to the need to ensure that items are appropriately marked to ensure traceability.

24. To aid this process an instrument should also set out the basic practical mechanisms and guidance States should use when deciding on a case-by-case basis whether or not to allow a transfer. This does not need to be overly burdensome, but may set out, for example, the basic need to ensure all transfers are supported by appropriate documentation, and that records must be kept of all transfers.

25. Existing work to improve the practical control of the transfer of conventional arms, as mentioned in the feasibility section (above), will set the foundation for putting an instrument into practice. But an instrument will also need to include provisions on transitional implementation periods and on the need for those able to, to offer assistance to other States to help them meet and successfully implement the commitments an instrument will entail.

26. Consideration will also be required of the resources needed to support implementation of an instrument. It may be decided that some kind of permanent or semi-permanent implementing body or secretariat is needed. This might serve as a point of contact for national reports and information-sharing, capacity-building assistance and as a basis for any fact-finding mechanism. But any such body should not duplicate the work of other existing bodies.

Conclusion

27. The United Kingdom offers these initial views on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the transfer of conventional arms, in the hope that they will help facilitate the future debate on these issues, particularly by the members of the group of governmental experts which is due to meet in 2008.

Venezuela

[Original: Spanish]
[30 April 2007]

1. The Bolivarian Republic of Venezuela firmly supports multilateral efforts to achieve general and complete disarmament. During that process, the total elimination of weapons of mass destruction, including nuclear weapons, should remain the primary goal of negotiations. The expectations regarding the possible

adoption of measures and agreements on this issue that were generated by the end of the cold war have evaporated as a result of the fatigue that has invaded the field of multilateral negotiations.

2. The lack of progress and the discouraging results of international conferences and meetings are a reflection of this negative trend, which, on many occasions, has resulted from unilateral positions promoted by some countries that have broken with multilateralism and with the standards and principles of international law that are enshrined in the Charter of the United Nations.

3. The Bolivarian Republic of Venezuela is convinced that only through multilateralism based on international law, cooperation and dialogue will it be possible to promote the negotiation of non-discriminatory, transparent disarmament agreements that take into account the specific security situations of countries.

4. Bearing in mind the fact that the very existence of nuclear weapons poses a threat to the survival of humankind, and the disarmament priorities agreed during the first special session of the General Assembly devoted to disarmament, the Government of the Bolivarian Republic of Venezuela considers that the international community should focus its diplomacy on the suppression of this category of weapons of mass destruction because of their destructive power and their negative implications for international peace and security. Although the nuclear threat might be thought to have diminished, the major nuclear Powers have continued to make rapid progress in the development of nuclear weapons as a result of modernization. These States have a greater responsibility to adopt measures aimed at reducing and eliminating the nuclear weapons in their arsenals in accordance with the letter and spirit of international instruments such as the Nuclear Non-Proliferation Treaty.

5. The Bolivarian Republic of Venezuela has been noting with concern the recent attempts to change the disarmament priorities by portraying nuclear disarmament as a less urgent issue and bringing into the debate other issues which, while relevant, are less serious than the risks and threats resulting from the vertical proliferation of nuclear weapons. Thus, it is necessary to promote balanced, comprehensive perspectives in addressing the issue of disarmament, taking into account the legitimate security and defence needs of States in accordance with Article 51 of the Charter of the United Nations.

6. Thus, the intent is to show that the effort to combat illicit trafficking in small arms and light weapons can be channelled effectively by negotiating a treaty on conventional weapons once the existing problems in this area have been related directly to the failure of the countries in which the companies that produce such arms and ammunition operate to require effective marking measures. The Bolivarian Republic of Venezuela considers that the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects provides an important platform for harmonizing international cooperation efforts in this area. We therefore doubt that the negotiation of an arms trade agreement can provide a genuinely effective means of addressing this issue.

7. Furthermore, the Venezuelan Government has the impression that the countries that support the proposed conventional weapons treaty have not followed the most appropriate procedure since the group of experts was not to have been established until the views of United Nations Member States regarding the timeliness and feasibility of this proposal were known. Unfortunately, the proponents of this

initiative did not take that key element into account, prejudging the outcome of the process.

8. In addition, in light of the variety of existing regional legal instruments, including the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials and the Inter-American Convention on Transparency in Conventional Weapons Acquisitions, the introduction of controversial initiatives such as this one, on which there is, as yet, no consensus and whose effectiveness is open to doubt, might be counterproductive to consolidation of the ongoing efforts at this level.

9. The Bolivarian Republic of Venezuela therefore does not support this initiative; the current circumstances call for greater efforts to achieve essential goals such as nuclear disarmament and elimination of the other categories of weapons of mass destruction. The Government of the Bolivarian Republic of Venezuela reaffirms its position that the question of disarmament should be addressed from a multilateral perspective with the support and participation of States, taking a comprehensive, balanced view of the problem that will encourage the adoption of agreements reflecting the interests of all parties.

Zambia

[Original: English]
[22 June 2007]

Introduction

1. Zambia was pleased to be one of the co-sponsors of the arms trade treaty resolution adopted by the First Committee in October 2006 and by the United Nations General Assembly in December 2006.

2. As the United Nations process begins, we are pleased to submit Zambia's views on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms.

3. Zambia recognizes that a number of transfer control agreements and documents already exist at the subregional, regional, multilateral and international levels. Despite this, there remain a number of gaps in international controls of the arms trade and variability in implementation of these various agreements.

4. Zambia believes that given the international nature of the arms trade, there is need for an international, comprehensive and transparent framework for all States to follow. This will ensure that States adhere to the highest standard of conduct, including adhering to international human rights and international humanitarian law standards.

Feasibility

5. Zambia is committed to this project. There were 153 countries which voted to start the process. Zambia recognizes the challenges that lie ahead and is committed to ensuring that a comprehensive and effective treaty is achieved. Zambia believes that for an arms trade treaty to be effective, it must be based on States' existing obligations under international law. Zambia is strongly of the view that an arms

trade treaty is feasible, as it would consolidate existing arms transfer principles that are firmly established in numerous international and regional treaties, declarations and resolutions of the United Nations and other multilateral and regional organizations. Much has already been achieved at the subregional, regional and international levels. The arms trade treaty process will build on this foundation. These existing principles are found in numerous documents such as:

- **The Charter of the United Nations;**
- **The Geneva Conventions and associated Protocols;**
- **The Convention on the Prevention of and Punishment of the Crime of Genocide;**
- **The Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment;**
- **The International Covenant on Civil and Political Rights;**
- **The International Covenant on Economic, Social and Cultural Rights;**
- **The International Law Commission's articles on responsibility of States for internationally wrongful acts;**
- **International treaties such as the 1997 Convention on the Prohibition of Anti-Personnel Mines and the 1980 Convention on Certain Conventional Weapons;**
- **Regional agreements including: the Nairobi Protocol on Small Arms and Light Weapons (2006); the SADC Protocol on the Control of Firearms; the 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons;**
- **Other agreements such as the 2001 United Nations Programme of Action on Small Arms and Light Weapons, including specifically section II, paragraph 2; the 1996 United Nations Guidelines for International Arms Transfers; the 2005 Central American Integration System (SICA) Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Materials.**

6. Zambia believes that an arms trade treaty should reflect the principles contained in these documents including the need to:

- **Establish clear national procedures for regulating international transfers of arms;**
- **Prevent and combat illicit arms transfers;**
- **Respect United Nations embargoes;**
- **Prevent diversion to proscribed groups, such as those which commit terrorist or criminal acts;**
- **Prohibit transfers that are likely to be used for serious violations of human rights or international humanitarian law;**
- **Prohibit transfers that violate obligations under international law;**
- **Prohibit transfers that are likely to be used to commit crimes against humanity or acts of genocide;**
- **Prohibit transfers that adversely affect sustainable development;**

- **Prohibit transfers that are likely to adversely affect internal or regional security.**

Scope

7. The arms trade treaty should clearly recognize that all States have the right to acquire conventional arms for legitimate self-defence and law enforcement needs in accordance with international law and standards. An arms trade treaty also needs to ensure that transfers do not aid the commission of human rights abuses or of serious violations of international humanitarian law, undermine sustainable development, provoke or exacerbate conflicts or allow arms to flow from the legitimate to the illicit market, and to assure assistance to survivors of small arms and light weapons misuse.

8. The arms trade treaty should emphasize gender aspects as they relate to women and children who bear the brunt of small arms and light weapons misuse.

9. Zambia therefore suggests that the treaty should comprise a comprehensive system to control the cross-border movement of all conventional arms including:

- **Heavy weapons;**
- **Small arms and light weapons;**
- **Parts and components for the aforementioned;**
- **Munitions and ammunition and explosives;**
- **Technology used for manufacturing conventional arms;**
- **Weapons used for internal security;**
- **Dual-use goods intended for military, security or policing purposes.**

10. Zambia also suggests that the arms trade treaty should apply to all aspects of the Government-sanctioned trade in conventional arms, which includes:

- **State-to-State;**
- **State-to-private end-user;**
- **Commercial sales;**
- **Leases;**
- **Loans or gifts or any other form of transfer of material goods or credit or expertise.**

Parameters

11. Zambia submits that decisions on transfers should remain under national control, but a central tenet of the arms trade treaty should be that States ensure that all international transfers of conventional arms relevant to their jurisdiction are subjected to strict control and licensed according to internationally agreed standards of international law. An arms trade treaty should set out those circumstances under which a State is obligated not to transfer conventional arms internationally, as set out in existing international law, including obligations under the Charter of the United Nations; any other treaty or decision by which a State is bound; legal

instruments which prohibit transfers of particular weapons or outright prohibition of a particular weapon; and obligations under international humanitarian law.

12. An arms trade treaty should also include the provision that States shall not authorize international transfers of conventional arms where they will be used or are likely to be used for violations of international law, including:

(a) Breaches of the Charter of the United Nations and rules of customary law relating to the threat or use of force;

(b) Gross violations of international human rights law;

(c) Serious violations of international humanitarian law, including the Geneva Conventions and Protocols;

(d) Crimes against humanity and genocide.

13. The arms trade treaty should also prohibit a transfer of conventional arms if it is likely to:

(i) Be used for or to facilitate terrorist attacks;

(ii) Be used for or to facilitate the commission of violence or organized crime;

(iii) Adversely affect sustainable development;

(iv) Involve corrupt practices;

(v) Contravene other international, regional or subregional commitments or decisions made or agreements on non-proliferation, arms control and disarmament to which the exporting, importing or transit States are party.

14. The arms trade treaty should also set out the practical measures that States should put in place to properly monitor and enforce the treaty. It should encompass a mechanism to ensure increased transparency and accountability in the international transfer of conventional arms, in order to build confidence in the effective implementation of the global treaty on the part of States. Importantly, provision will be needed for the transitional period and for international support for national implementation.

Conclusion

15. The above constitutes Zambia's initial comments on the arms trade treaty. Zambia looks forward to cooperating with other States Members of the United Nations in the process spelled out in resolution 61/89 and further developments aimed at the establishment of common international standards for the import, export and transfer of conventional arms.